

114TH CONGRESS } 1st Session	HOUSE OF REPRESENTATIVES	{ REPORT 114-
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WESTERN WATER AND AMERICAN FOOD SECURITY ACT OF
2015

JULY --, 2015.—Ordered to be printed

Mr. BISHOP of Utah, from the Committee on Natural Resources,
submitted the following

R E P O R T

together with

Dissenting
— VIEWS

[To accompany H.R. 2898]

~~[Including cost estimate of the Congressional Budget Office]~~

The Committee on Natural Resources, to whom was referred the bill (H.R. 2898) to provide drought relief in the State of California, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Western Water and American Food Security Act of 2015”.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings.
Sec. 3. Definitions.

TITLE I—ADJUSTING DELTA SMELT MANAGEMENT BASED ON INCREASED REAL-TIME
MONITORING AND UPDATED SCIENCE

Sec. 101. Definitions.
Sec. 102. Revise incidental take level calculation for delta smelt to reflect new science.
Sec. 103. Factoring increased real-time monitoring and updated science into Delta smelt management.

TITLE II—ENSURING SALMONID MANAGEMENT IS RESPONSIVE TO NEW SCIENCE

Sec. 201. Definitions.
Sec. 202. Process for ensuring salmonid management is responsive to new science.
Sec. 203. Non-Federal program to protect native anadromous fish in the Stanislaus River.
Sec. 204. Pilot projects to implement calfed invasive species program.

TITLE III--OPERATIONAL FLEXIBILITY AND DROUGHT RELIEF

- Sec. 301. Definitions.
- Sec. 302. Operational flexibility in times of drought.
- Sec. 303. Operation of cross-channel gates.
- Sec. 304. Flexibility for export/inflow ratio.
- Sec. 305. Emergency environmental reviews.
- Sec. 306. Increased flexibility for regular project operations.
- Sec. 307. Temporary operational flexibility for first few storms of the water year.
- Sec. 308. Expediting water transfers.
- Sec. 309. Additional emergency consultation.
- Sec. 310. Additional storage at New Melones.
- Sec. 311. Regarding the operation of Folsom Reservoir.
- Sec. 312. Applicants.
- Sec. 313. San Joaquin River settlement.
- Sec. 314. Program for water rescheduling.

TITLE IV--CALFED STORAGE FEASIBILITY STUDIES

- Sec. 401. Studies.
- Sec. 402. Temperance Flat.
- Sec. 403. CALFED storage accountability.
- Sec. 404. Water storage project construction.

TITLE V--WATER RIGHTS PROTECTIONS

- Sec. 501. Offset for State Water Project.
- Sec. 502. Area of origin protections.
- Sec. 503. No redirected adverse impacts.
- Sec. 504. Allocations for Sacramento Valley contractors.
- Sec. 505. Effect on existing obligations.

TITLE VI--MISCELLANEOUS

- Sec. 601. Authorized service area.
- Sec. 602. Oversight board for Restoration Fund.
- Sec. 603. Water supply accounting.
- Sec. 604. Implementation of water replacement plan.
- Sec. 605. Natural and artificially spawned species.
- Sec. 606. Transfer the New Melones Unit, Central Valley Project to interested providers.
- Sec. 607. Basin studies.
- Sec. 608. Operations of the Trinity River Division.
- Sec. 609. Amendment to purposes.
- Sec. 610. Amendment to definition.

TITLE VII--WATER SUPPLY PERMITTING ACT

- Sec. 701. Short title.
- Sec. 702. Definitions.
- Sec. 703. Establishment of lead agency and cooperating agencies.
- Sec. 704. Bureau responsibilities.
- Sec. 705. Cooperating agency responsibilities.
- Sec. 706. Funding to process permits.

TITLE VIII--BUREAU OF RECLAMATION PROJECT STREAMLINING

- Sec. 801. Short title.
- Sec. 802. Definitions.
- Sec. 803. Acceleration of studies.
- Sec. 804. Expedited completion of reports.
- Sec. 805. Project acceleration.
- Sec. 806. Annual report to Congress.

TITLE IX--ACCELERATED REVENUE, REPAYMENT, AND SURFACE WATER STORAGE ENHANCEMENT

- Sec. 901. Short title.
- Sec. 902. Prepayment of certain repayment contracts between the United States and contractors of federally developed water supplies.

TITLE X--SAFETY OF DAMS

- Sec. 1001. Authorization of additional project benefits.

TITLE XI--WATER RIGHTS PROTECTION

- Sec. 1101. Short title.
- Sec. 1102. Definition of water right.
- Sec. 1103. Treatment of water rights.
- Sec. 1104. Recognition of State authority.
- Sec. 1105. Effect of title.

SEC. 2. FINDINGS.

Congress finds as follows:

- (1) As established in the Proclamation of a State of Emergency issued by the Governor of the State on January 17, 2014, the State is experiencing record dry conditions.
- (2) Extremely dry conditions have persisted in the State since 2012, and the drought conditions are likely to persist into the future.

(3) The water supplies of the State are at record-low levels, as indicated by the fact that all major Central Valley Project reservoir levels were at 20–35 percent of capacity as of September 25, 2014.

(4) The lack of precipitation has been a significant contributing factor to the 6,091 fires experienced in the State as of September 15, 2014, and which covered nearly 400,000 acres.

(5) According to a study released by the University of California, Davis in July 2014, the drought has led to the fallowing of 428,000 acres of farmland, loss of \$810 million in crop revenue, loss of \$203 million in dairy and other livestock value, and increased groundwater pumping costs by \$454 million. The statewide economic costs are estimated to be \$2.2 billion, with over 17,000 seasonal and part-time agricultural jobs lost.

(6) CVPIA Level II water deliveries to refuges have also been reduced by 25 percent in the north of Delta region, and by 35 percent in the south of Delta region.

(7) Only one-sixth of the usual acres of rice fields are being flooded this fall, which leads to a significant decline in habitat for migratory birds and an increased risk of disease at the remaining wetlands due to overcrowding of such birds.

(8) The drought of 2013 through 2014 constitutes a serious emergency that poses immediate and severe risks to human life and safety and to the environment throughout the State.

(9) The serious emergency described in paragraph (4) requires—

(A) immediate and credible action that respects the complexity of the water system of the State and the importance of the water system to the entire State; and

(B) policies that do not pit stakeholders against one another, which history shows only leads to costly litigation that benefits no one and prevents any real solutions.

(10) Data on the difference between water demand and reliable water supplies for various regions of California south of the Delta, including the San Joaquin Valley, indicate there is a significant annual gap between reliable water supplies to meet agricultural, municipal and industrial, groundwater, and refuges water needs within the Delta Division, San Luis Unit and Friant Division of the Central Valley Project and the State Water Project south of the Sacramento-San Joaquin River Delta and the demands of those areas. This gap varies depending on the methodology of the analysis performed, but can be represented in the following ways:

(A) For Central Valley Project South-of-Delta water service contractors, if it is assumed that a water supply deficit is the difference in the amount of water available for allocation versus the maximum contract quantity, then the water supply deficits that have developed from 1992 to 2014 as a result of legislative and regulatory changes besides natural variations in hydrology during this timeframe range between 720,000 and 1,100,000 acre-feet.

(B) For Central Valley Project and State Water Project water service contractors south of the Delta and north of the Tehachapi mountain range, if it is assumed that a water supply deficit is the difference between reliable water supplies, including maximum water contract deliveries, safe yield of groundwater, safe yield of local and surface supplies and long-term contracted water transfers, and water demands, including water demands from agriculture, municipal and industrial and refuge contractors, then the water supply deficit ranges between approximately 2,500,000 to 2,700,000 acre-feet.

(11) Data of pumping activities at the Central Valley Project and State Water Project delta pumps identifies that, on average from Water Year 2009 to Water Year 2014, take of Delta smelt is 80 percent less than allowable take levels under the biological opinion issued December 15, 2008.

(12) Data of field sampling activities of the Interagency Ecological Program located in the Sacramento-San Joaquin Estuary identifies that, on average from 2005 to 2013, the program “takes” 3,500 delta smelt during annual surveys with an authorized “take” level of 33,480 delta smelt annually—according to the biological opinion issued December 9, 1997.

(13) In 2015, better information exists than was known in 2008 concerning conditions and operations that may or may not lead to high salvage events that

jeopardize the fish populations, and what alternative management actions can be taken to avoid jeopardy.

(14) Alternative management strategies, removing non-native species, enhancing habitat, monitoring fish movement and location in real-time, and improving water quality in the Delta can contribute significantly to protecting and recovering these endangered fish species, and at potentially lower costs to water supplies.

(15) Resolution of fundamental policy questions concerning the extent to which application of the Endangered Species Act of 1973 affects the operation of the Central Valley Project and State Water Project is the responsibility of Congress.

SEC. 3. DEFINITIONS.

In this Act:

(1) **DELTA.**—The term “Delta” means the Sacramento-San Joaquin Delta and the Suisun Marsh, as defined in sections 12220 and 29101 of the California Public Resources Code.

(2) **EXPORT PUMPING RATES.**—The term “export pumping rates” means the rates of pumping at the C.W. “Bill” Jones Pumping Plant and the Harvey O. Banks Pumping Plant, in the southern Delta.

(3) **LISTED FISH SPECIES.**—The term “listed fish species” means listed salmonid species and the Delta smelt.

(4) **LISTED SALMONID SPECIES.**—The term “listed salmonid species” means natural origin steelhead, natural origin genetic spring run Chinook, and genetic winter run Chinook salmon including hatchery steelhead or salmon populations within the evolutionary significant unit (ESU) or distinct population segment (DPS).

(5) **NEGATIVE IMPACT ON THE LONG-TERM SURVIVAL.**—The term “negative impact on the long-term survival” means to reduce appreciably the likelihood of the survival of a listed species in the wild by reducing the reproduction, numbers, or distribution of that species.

(6) **OMR.**—The term “OMR” means the Old and Middle River in the Delta.

(7) **OMR FLOW OF -5,000 CUBIC FEET PER SECOND.**—The term “OMR flow of -5,000 cubic feet per second” means Old and Middle River flow of negative 5,000 cubic feet per second as described in—

- (A) the smelt biological opinion; and
- (B) the salmonid biological opinion.

(8) **SALMONID BIOLOGICAL OPINION.**—The term “salmonid biological opinion” means the biological opinion issued by the National Marine Fisheries Service on June 4, 2009.

(9) **SMELT BIOLOGICAL OPINION.**—The term “smelt biological opinion” means the biological opinion on the Long-Term Operational Criteria and Plan for coordination of the Central Valley Project and State Water Project issued by the United States Fish and Wildlife Service on December 15, 2008.

(10) **STATE.**—The term “State” means the State of California.

TITLE I—ADJUSTING DELTA SMELT MANAGEMENT BASED ON INCREASED REAL-TIME MONITORING AND UPDATED SCIENCE

SEC. 101. DEFINITIONS.

In this title:

(1) **DIRECTOR.**—The term “Director” means the Director of the United States Fish and Wildlife Service.

(2) **DELTA SMELT.**—The term “Delta smelt” means the fish species with the scientific name *Hypomesus transpacificus*.

(3) **SECRETARY.**—The term “Secretary” means the Secretary of the Interior.

(4) **COMMISSIONER.**—The term “Commissioner” means the Commissioner of the Bureau of Reclamation.

SEC. 102. REVISE INCIDENTAL TAKE LEVEL CALCULATION FOR DELTA SMELT TO REFLECT NEW SCIENCE.

(a) **REVIEW AND MODIFICATION.**—Not later than October 1, 2016, and at least every five years thereafter, the Director, in cooperation with other Federal, State,

and local agencies, shall use the best scientific and commercial data available to complete a review and, modify the method used to calculate the incidental take levels for adult and larval/juvenile Delta smelt in the smelt biological opinion that takes into account all life stages, among other considerations—

- (1) salvage information collected since at least 1993;
- (2) updated or more recently developed statistical models;
- (3) updated scientific and commercial data; and
- (4) the most recent information regarding the environmental factors affecting Delta smelt salvage.

(b) **MODIFIED INCIDENTAL TAKE LEVEL.**—Unless the Director determines in writing that one or more of the requirements described in paragraphs (1) through (4) are not appropriate, the modified incidental take level described in subsection (a) shall—

- (1) be normalized for the abundance of prespawning adult Delta smelt using the Fall Midwater Trawl Index or other index;
- (2) be based on a simulation of the salvage that would have occurred from 1993 through 2012 if OMR flow has been consistent with the smelt biological opinions;
- (3) base the simulation on a correlation between annual salvage rates and historic water clarity and OMR flow during the adult salvage period; and
- (4) set the incidental take level as the 80 percent upper prediction interval derived from simulated salvage rates since at least 1993.

SEC. 103. FACTORING INCREASED REAL-TIME MONITORING AND UPDATED SCIENCE INTO DELTA SMELT MANAGEMENT.

(a) **IN GENERAL.**—The Director shall use the best scientific and commercial data available to implement, continuously evaluate, and refine or amend, as appropriate, the reasonable and prudent alternative described in the smelt biological opinion, and any successor opinions or court order. The Secretary shall make all significant decisions under the smelt biological opinion, or any successor opinions that affect Central Valley Project and State Water Project operations, in writing, and shall document the significant facts upon which such decisions are made, consistent with section 706 of title 5, United States Code.

(b) **INCREASED MONITORING TO INFORM REAL-TIME OPERATIONS.**—The Secretary shall conduct additional surveys, on an annual basis at the appropriate time of the year based on environmental conditions, in collaboration with other Delta science interests.

(1) In implementing this section, the Secretary shall—

(A) use the most accurate survey methods available for the detection of Delta smelt to determine the extent that adult Delta smelt are distributed in relation to certain levels of turbidity, or other environmental factors that may influence salvage rate; and

(B) use results from appropriate survey methods for the detection of Delta smelt to determine how the Central Valley Project and State Water Project may be operated more efficiently to minimize salvage while maximizing export pumping rates without causing a significant negative impact on the long-term survival of the Delta smelt.

(2) During the period beginning on December 1, 2015, and ending March 31, 2016, and in each successive December through March period, if suspended sediment loads enter the Delta from the Sacramento River and the suspended sediment loads appear likely to raise turbidity levels in the Old River north of the export pumps from values below 12 Nephelometric Turbidity Units (NTU) to values above 12 NTU, the Secretary shall—

(A) conduct daily monitoring using appropriate survey methods at locations including, but not limited to, the vicinity of Station 902 to determine the extent that adult Delta smelt are moving with turbidity toward the export pumps; and

(B) use results from the monitoring surveys referenced in paragraph (A) to determine how increased trawling can inform daily real-time Central Valley Project and State Water Project operations to minimize salvage while maximizing export pumping rates without causing a significant negative impact on the long-term survival of the Delta smelt.

(c) **PERIODIC REVIEW OF MONITORING.**—Within 12 months of the date of enactment of this title, and at least once every 5 years thereafter, the Secretary shall—

(1) evaluate whether the monitoring program under subsection (b), combined with other monitoring programs for the Delta, is providing sufficient data to inform Central Valley Project and State Water Project operations to minimize sal-

vage while maximizing export pumping rates without causing a significant negative impact on the long-term survival of the Delta smelt; and

(2) determine whether the monitoring efforts should be changed in the short or long term to provide more useful data.

(d) DELTA SMELT DISTRIBUTION STUDY.—

(1) IN GENERAL.—No later than January 1, 2016, and at least every five years thereafter, the Secretary, in collaboration with the California Department of Fish and Wildlife, the California Department of Water Resources, public water agencies, and other interested entities, shall implement new targeted sampling and monitoring specifically designed to understand Delta smelt abundance, distribution, and the types of habitat occupied by Delta smelt during all life stages.

(2) SAMPLING.—The Delta smelt distribution study shall, at a minimum—

(A) include recording water quality and tidal data;

(B) be designed to understand Delta smelt abundance, distribution, habitat use, and movement throughout the Delta, Suisun Marsh, and other areas occupied by the Delta smelt during all seasons;

(C) consider areas not routinely sampled by existing monitoring programs, including wetland channels, near-shore water, depths below 35 feet, and shallow water; and

(D) use survey methods, including sampling gear, best suited to collect the most accurate data for the type of sampling or monitoring.

(e) SCIENTIFICALLY SUPPORTED IMPLEMENTATION OF OMR FLOW REQUIREMENTS.—In implementing the provisions of the smelt biological opinion, or any successor biological opinion or court order, pertaining to management of reverse flow in the Old and Middle Rivers, the Secretary shall—

(1) consider the relevant provisions of the biological opinion or any successor biological opinion;

(2) to maximize Central Valley project and State Water Project water supplies, manage export pumping rates to achieve a reverse OMR flow rate of -5,000 cubic feet per second unless information developed by the Secretary under paragraphs (3) and (4) leads the Secretary to reasonably conclude that a less negative OMR flow rate is necessary to avoid a negative impact on the long-term survival of the Delta smelt. If information available to the Secretary indicates that a reverse OMR flow rate more negative than -5,000 cubic feet per second can be established without an imminent negative impact on the long-term survival of the Delta smelt, the Secretary shall manage export pumping rates to achieve that more negative OMR flow rate;

(3) document in writing any significant facts about real-time conditions relevant to the determinations of OMR reverse flow rates, including—

(A) whether targeted real-time fish monitoring in the Old River pursuant to this section, including monitoring in the vicinity of Station 902, indicates that a significant negative impact on the long-term survival of the Delta smelt is imminent; and

(B) whether near-term forecasts with available salvage models show under prevailing conditions that OMR flow of -5,000 cubic feet per second or higher will cause a significant negative impact on the long-term survival of the Delta smelt;

(4) show in writing that any determination to manage OMR reverse flow at rates less negative than -5,000 cubic feet per second is necessary to avoid a significant negative impact on the long-term survival of the Delta smelt, including an explanation of the data examined and the connection between those data and the choice made, after considering—

(A) the distribution of Delta smelt throughout the Delta;

(B) the potential effects of documented, quantified entrainment on subsequent Delta smelt abundance;

(C) the water temperature;

(D) other significant factors relevant to the determination; and

(E) whether any alternative measures could have a substantially lesser water supply impact; and

(5) for any subsequent biological opinion, make the showing required in paragraph (4) for any determination to manage OMR reverse flow at rates less negative than the most negative limit in the biological opinion if the most negative limit in the biological opinion is more negative than -5,000 cubic feet per second.

(f) MEMORANDUM OF UNDERSTANDING.—No later than December 1, 2015, the Commissioner and the Director will execute a Memorandum of Understanding (MOU) to ensure that the smelt biological opinion is implemented in a manner that

maximizes water supply while complying with applicable laws and regulations. If that MOU alters any procedures set out in the biological opinion, there will be no need to reinstate consultation if those changes will not have a significant negative impact on the long-term survival of listed species and the implementation of the MOU would not be a major change to implementation of the biological opinion. Any change to procedures that does not create a significant negative impact on the long-term survival of listed species will not alter application of the take permitted by the incidental take statement in the biological opinion under section 7(o)(2) of the Endangered Species Act of 1973.

(g) **CALCULATION OF REVERSE FLOW IN OMR.**—Within 90 days of the enactment of this title, the Secretary is directed, in consultation with the California Department of Water Resources to revise the method used to calculate reverse flow in Old and Middle Rivers for implementation of the reasonable and prudent alternatives in the smelt biological opinion and the salmonid biological opinion, and any succeeding biological opinions, for the purpose of increasing Central Valley Project and State Water Project water supplies. The method of calculating reverse flow in Old and Middle Rivers shall be reevaluated not less than every five years thereafter to achieve maximum export pumping rates within limits established by the smelt biological opinion, the salmonid biological opinion, and any succeeding biological opinions.

TITLE II—ENSURING SALMONID MANAGEMENT IS RESPONSIVE TO NEW SCIENCE

SEC. 201. DEFINITIONS.

In this title:

(1) **ASSISTANT ADMINISTRATOR.**—The term “Assistant Administrator” means the Assistant Administrator of the National Oceanic and Atmospheric Administration for Fisheries.

(2) **SECRETARY.**—The term “Secretary” means the Secretary of Commerce.

(3) **OTHER AFFECTED INTERESTS.**—The term “other affected interests” means the State of California, Indian tribes, subdivisions of the State of California, public water agencies and those who benefit directly and indirectly from the operations of the Central Valley Project and the State Water Project.

(4) **COMMISSIONER.**—The term “Commissioner” means the Commissioner of the Bureau of Reclamation.

(5) **DIRECTOR.**—The term “Director” means the Director of the United States Fish and Wildlife Service.

SEC. 202. PROCESS FOR ENSURING SALMONID MANAGEMENT IS RESPONSIVE TO NEW SCIENCE.

(a) **GENERAL DIRECTIVE.**—The reasonable and prudent alternative described in the salmonid biological opinion allows for and anticipates adjustments in Central Valley Project and State Water Project operation parameters to reflect the best scientific and commercial data currently available, and authorizes efforts to test and evaluate improvements in operations that will meet applicable regulatory requirements and maximize Central Valley Project and State Water Project water supplies and reliability. Implementation of the reasonable and prudent alternative described in the salmonid biological opinion shall be adjusted accordingly as new scientific and commercial data are developed. The Commissioner and the Assistant Administrator shall fully utilize these authorities as described below.

(b) **ANNUAL REVIEWS OF CERTAIN CENTRAL VALLEY PROJECT AND STATE WATER PROJECT OPERATIONS.**—No later than December 31, 2016, and at least annually thereafter:

(1) The Commissioner, with the assistance of the Assistant Administrator, shall examine and identify adjustments to the initiation of Action IV.2.3 as set forth in the Biological Opinion and Conference Opinion on the Long-Term Operations of the Central Valley Project and State Water Project, Endangered Species Act Section 7 Consultation, issued by the National Marine Fisheries Service on June 4, 2009, pertaining to negative OMR flows, subject to paragraph (5).

(2) The Commissioner, with the assistance of the Assistant Administrator, shall examine and identify adjustments in the timing, triggers or other operational details relating to the implementation of pumping restrictions in Action IV.2.1 pertaining to the inflow to export ratio, subject to paragraph (5).

(3) Pursuant to the consultation and assessments carried out under paragraphs (1) and (2) of this subsection, the Commissioner and the Assistant Administrator shall jointly make recommendations to the Secretary of the Interior and to the Secretary on adjustments to project operations that, in the exercise of the adaptive management provisions of the salmonid biological opinion, will reduce water supply impacts of the salmonid biological opinion on the Central Valley Project and the California State Water Project and are consistent with the requirements of applicable law and as further described in subsection (c).

(4) The Secretary and the Secretary of the Interior shall direct the Commissioner and Assistant Administrator to implement recommended adjustments to Central Valley Project and State Water Project operations for which the conditions under subsection (c) are met.

(5) The Assistant Administrator and the Commissioner shall review and identify adjustments to Central Valley Project and State Water Project operations with water supply restrictions in any successor biological opinion to the salmonid biological opinion, applying the provisions of this section to those water supply restrictions where there are references to Actions IV.2.1 and IV.2.3.

(c) IMPLEMENTATION OF OPERATIONAL ADJUSTMENTS.—After reviewing the recommendations under subsection (b), the Secretary of the Interior and the Secretary shall direct the Commissioner and the Assistant Administrator to implement those operational adjustments, or any combination, for which, in aggregate—

(1) the net effect on listed species is equivalent to those of the underlying project operational parameters in the salmonid biological opinion, taking into account both—

(A) efforts to minimize the adverse effects of the adjustment to project operations; and

(B) whatever additional actions or measures may be implemented in conjunction with the adjustments to operations to offset the adverse effects to listed species, consistent with (d), that are in excess of the adverse effects of the underlying operational parameters, if any; and

(2) the effects of the adjustment can be reasonably expected to fall within the incidental take authorizations.

(d) EVALUATION OF OFFSETTING MEASURES.—When examining and identifying opportunities to offset the potential adverse effect of adjustments to operations under subsection (c)(1)(B), the Commissioner and the Assistant Administrator shall take into account the potential species survival improvements that are likely to result from other measures which, if implemented in conjunction with such adjustments, would offset adverse effects, if any, of the adjustments. When evaluating offsetting measures, the Commissioner and the Assistant Administrator shall consider the type, timing and nature of the adverse effects, if any, to specific species and ensure that the measures likely provide equivalent overall benefits to the listed species in the aggregate, as long as the change will not cause a significant negative impact on the long-term survival of a listed salmonid species.

(e) FRAMEWORK FOR EXAMINING OPPORTUNITIES TO MINIMIZE OR OFFSET THE POTENTIAL ADVERSE EFFECT OF ADJUSTMENTS TO OPERATIONS.—Not later than December 31, 2015, and every five years thereafter, the Assistant Administrator shall, in collaboration with the Director of the California Department of Fish and Wildlife, based on the best scientific and commercial data available and for each listed salmonid species, issue estimates of the increase in through-Delta survival the Secretary expects to be achieved—

(1) through restrictions on export pumping rates as specified by Action IV.2.3 as compared to limiting OMR flow to a fixed rate of 5,000 cubic feet per second within the time period Action IV.2.3 is applicable, based on a given rate of San Joaquin River inflow to the Delta and holding other relevant factors constant;

(2) through San Joaquin River inflow to export restrictions on export pumping rates specified within Action IV.2.1 as compared to the restrictions in the April/May period imposed by the State Water Resources Control Board decision D-1641, based on a given rate of San Joaquin River inflow to the Delta and holding other relevant factors constant;

(3) through physical habitat restoration improvements;

(4) through predation control programs;

(5) through the installation of temporary barriers, the management of Cross Channel Gates operations, and other projects affecting flow in the Delta;

(6) through salvaging fish that have been entrained near the entrance to Clifton Court Forebay;

(7) through any other management measures that may provide equivalent or better protections for listed species while maximizing export pumping rates without causing a significant negative impact on the long-term survival of a listed salmonid species; and

(8) through development and implementation of conservation hatchery programs for salmon and steelhead to aid in the recovery of listed salmon and steelhead species.

(f) SURVIVAL ESTIMATES.—

(1) To the maximum extent practicable, the Assistant Administrator shall make quantitative estimates of survival such as a range of percentage increases in through-Delta survival that could result from the management measures, and if the scientific information is lacking for quantitative estimates, shall do so on qualitative terms based upon the best available science.

(2) If the Assistant Administrator provides qualitative survival estimates for a species resulting from one or more management measures, the Secretary shall, to the maximum extent feasible, rank the management measures described in subsection (e) in terms of their most likely expected contribution to increased through-Delta survival relative to the other measures.

(3) If at the time the Assistant Administrator conducts the reviews under subsection (b), the Secretary has not issued an estimate of increased through-Delta survival from different management measures pursuant to subsection (e), the Secretary shall compare the protections to the species from different management measures based on the best scientific and commercial data available at the time.

(g) COMPARISON OF ADVERSE CONSEQUENCES FOR ALTERNATIVE MANAGEMENT MEASURES OF EQUIVALENT PROTECTION FOR A SPECIES.—

(1) For the purposes of this subsection and subsection (c)---

(A) the alternative management measure or combination of alternative management measures identified in paragraph (2) shall be known as the "equivalent alternative measure";

(B) the existing measure or measures identified in subparagraphs (2) (A), (B), (C), or (D) shall be known as the "equivalent existing measure"; and

(C) an "equivalent increase in through-Delta survival rates for listed salmonid species" shall mean an increase in through-Delta survival rates that is equivalent when considering the change in through-Delta survival rates for the listed salmonid species in the aggregate, and not the same change for each individual species, as long as the change in survival rates will not cause a significant negative impact on the long-term survival of a listed salmonid species.

(2) As part of the reviews of project operations pursuant to subsection (b), the Assistant Administrator shall determine whether any alternative management measures or combination of alternative management measures listed in subsection (e) (3) through (8) would provide an increase in through-Delta survival rates for listed salmonid species that is equivalent to the increase in through-Delta survival rates for listed salmonid species from the following:

(A) Through restrictions on export pumping rates as specified by Action IV.2.3, as compared to limiting OMR flow to a fixed rate of -5,000 cubic feet per second within the time period Action IV.2.3 is applicable.

(B) Through restrictions on export pumping rates as specified by Action IV.2.3, as compared to a modification of Action IV.2.3 that would provide additional water supplies, other than that described in subparagraph (A).

(C) Through San Joaquin River inflow to export restrictions on export pumping rates specified within Action IV.2.1, as compared to the restrictions in the April/May period imposed by the State Water Resources Control Board decision D-1641.

(D) Through San Joaquin River inflow to export restrictions on export pumping rates specified within Action IV.2.1, as compared to a modification of Action IV.2.1 that would reduce water supply impacts of the salmonid biological opinion on the Central Valley Project and the California State Water Project, other than that described in subparagraph (C).

(3) If the Assistant Administrator identifies an equivalent alternative measure pursuant to paragraph (2), the Assistant Administrator shall determine whether—

(A) it is technically feasible and within Federal jurisdiction to implement the equivalent alternative measure;

(B) the State of California, or subdivision thereof, or local agency with jurisdiction has certified in writing within 10 calendar days to the Assistant Administrator that it has the authority and capability to implement the pertinent equivalent alternative measure; or

(C) the adverse consequences of doing so are less than the adverse consequences of the equivalent existing measure, including a concise evaluation of the adverse consequences to other affected interests.

(4) If the Assistant Administrator makes the determinations in subparagraph (3)(A) or (3)(B), the Commissioner shall adjust project operations to implement the equivalent alternative measure in place of the equivalent existing measure in order to increase export rates of pumping to the greatest extent possible while maintaining a net combined effect of equivalent through-Delta survival rates for the listed salmonid species.

(h) TRACKING ADVERSE EFFECTS BEYOND THE RANGE OF EFFECTS ACCOUNTED FOR IN THE SALMONID BIOLOGICAL OPINION AND COORDINATED OPERATION WITH THE DELTA SMELT BIOLOGICAL OPINION.—

(1) Among the adjustments to the project operations considered through the adaptive management process under this section, the Assistant Administrator and the Commissioner shall—

(A) evaluate the effects on listed salmonid species and water supply of the potential adjustment to operational criteria described in subparagraph (B); and

(B) consider requiring that before some or all of the provisions of Actions IV.2.1. or IV.2.3 are imposed in any specific instance, the Assistant Administrator show that the implementation of these provisions in that specific instance is necessary to avoid a significant negative impact on the long-term survival of a listed salmonid species.

(2) The Assistant Administrator, the Director, and the Commissioner, in coordination with State officials as appropriate, shall establish operational criteria to coordinate management of OMR flows under the smelt and salmonid biological opinions, in order to take advantage of opportunities to provide additional water supplies from the coordinated implementation of the biological opinions.

(3) The Assistant Administrator and the Commissioner shall document the effects of any adaptive management decisions related to the coordinated operation of the smelt and salmonid biological opinions that prioritizes the maintenance of one species at the expense of the other.

(i) REAL-TIME MONITORING AND MANAGEMENT.—Notwithstanding the calendar based triggers described in the salmonid biological opinion Reasonable and Prudent Alternative (RPA), the Assistant Administrator and the Commissioner shall not limit OMR reverse flow to -5,000 cubic feet per second unless current monitoring data indicate that this OMR flow limitation is reasonably required to avoid a significant negative impact on the long-term survival of a listed salmonid species.

(j) EVALUATION AND IMPLEMENTATION OF MANAGEMENT MEASURES.—If the quantitative estimates of through-Delta survival established by the Secretary for the adjustments in subsection (b)(2) exceed the through-Delta survival established for the RPAs, the Secretary shall evaluate and implement the management measures in subsection (b)(2) as a prerequisite to implementing the RPAs contained in the Salmonid Biological Opinion.

(k) ACCORDANCE WITH OTHER LAW.—Consistent with section 706 of title 5, United States Code, decisions of the Assistant Administrator and the Commissioner described in subsections (b) through (j) shall be made in writing, on the basis of best scientific and commercial data currently available, and shall include an explanation of the data examined at the connection between those data and the decisions made.

SEC. 203. NON-FEDERAL PROGRAM TO PROTECT NATIVE ANADROMOUS FISH IN THE STANISLAUS RIVER.

(a) ESTABLISHMENT OF NONNATIVE PREDATOR FISH REMOVAL PROGRAM.—The Secretary and the districts, in consultation with the Director, shall jointly develop and conduct a nonnative predator fish removal program to remove nonnative striped bass, smallmouth bass, largemouth bass, black bass, and other nonnative predator fish species from the Stanislaus River. The program shall—

(1) be scientifically based;

(2) include methods to quantify the number and size of predator fish removed each year, the impact of such removal on the overall abundance of predator fish, and the impact of such removal on the populations of juvenile anadromous fish found in the Stanislaus River by, among other things, evaluating the number

of juvenile anadromous fish that migrate past the rotary screw trap located at Caswell;

(3) among other methods, use wire fyke trapping, portable resistance board weirs, and boat electrofishing; and

(4) be implemented as quickly as possible following the issuance of all necessary scientific research.

(b) **MANAGEMENT.**—The management of the program shall be the joint responsibility of the Secretary and the districts. Such parties shall work collaboratively to ensure the performance of the program, and shall discuss and agree upon, among other things, changes in the structure, management, personnel, techniques, strategy, data collection, reporting, and conduct of the program.

(c) **CONDUCT.**—

(1) **IN GENERAL.**—By agreement between the Secretary and the districts, the program may be conducted by their own personnel, qualified private contractors hired by the districts, personnel of, on loan to, or otherwise assigned to the National Marine Fisheries Service, or a combination thereof.

(2) **PARTICIPATION BY THE NATIONAL MARINE FISHERIES SERVICE.**—If the districts elect to conduct the program using their own personnel or qualified private contractors hired by them in accordance with paragraph (1), the Secretary may assign an employee of, on loan to, or otherwise assigned to the National Marine Fisheries Service, to be present for all activities performed in the field. Such presence shall ensure compliance with the agreed-upon elements specified in subsection (b). The districts shall pay the cost of such participation in accordance with subsection (d).

(3) **TIMING OF ELECTION.**—The districts shall notify the Secretary of their election on or before October 15 of each calendar year of the program. Such an election shall apply to the work performed in the subsequent calendar year.

(d) **FUNDING.**—

(1) **IN GENERAL.**—The districts shall be responsible for 100 percent of the cost of the program.

(2) **CONTRIBUTED FUNDS.**—The Secretary may accept and use contributions of funds from the districts to carry out activities under the program.

(3) **ESTIMATION OF COST.**—On or before December 1 of each year of the program, the Secretary shall submit to the districts an estimate of the cost to be incurred by the National Marine Fisheries Service for the program in the following calendar year, if any, including the cost of any data collection and posting under subsection (e). If an amount equal to the estimate is not provided through contributions pursuant to paragraph (2) before December 31 of that year—

(A) the Secretary shall have no obligation to conduct the program activities otherwise scheduled for such following calendar year until such amount is contributed by the districts; and

(B) the districts may not conduct any aspect of the program until such amount is contributed by the districts.

(4) **ACCOUNTING.**—On or before September 1 of each year, the Secretary shall provide to the districts an accounting of the costs incurred by the Secretary for the program in the preceding calendar year. If the amount contributed by the districts pursuant to paragraph (2) for that year was greater than the costs incurred by the Secretary, the Secretary shall—

(A) apply the excess contributions to costs of activities to be performed by the Secretary under the program, if any, in the next calendar year; or

(B) if no such activities are to be performed, repay the excess contribution to the districts.

(e) **POSTING AND EVALUATION.**—On or before the 15th day of each month, the Secretary shall post on the Internet website of the National Marine Fisheries Service a tabular summary of the raw data collected under the program in the preceding month.

(f) **IMPLEMENTATION.**—The program is hereby found to be consistent with the requirements of the Central Valley Project Improvement Act (Public Law 102-575). No provision, plan or definition established or required by the Central Valley Project Improvement Act (Public Law 102-575) shall be used to prohibit the imposition of the program, or to prevent the accomplishment of its goals.

(g) **TREATMENT OF STRIPED BASS.**—For purposes of the application of the Central Valley Project Improvement Act (title XXXIV of Public Law 102-575) with respect to the program, striped bass shall not be treated as anadromous fish.

(h) **DEFINITION.**—For the purposes of this section, the term “districts” means the Oakdale Irrigation District and the South San Joaquin Irrigation District, California.

SEC. 204. PILOT PROJECTS TO IMPLEMENT CALFED INVASIVE SPECIES PROGRAM.

(a) **IN GENERAL.**—Not later than January 1, 2017, the Secretary of the Interior, in collaboration with the Secretary of Commerce, the Director of the California Department of Fish and Wildlife, and other relevant agencies and interested parties, shall begin pilot projects to implement the invasive species control program authorized pursuant to section 103(d)(6)(A)(iv) of Public Law 108–361 (118 Stat. 1690).

(b) **REQUIREMENTS.**—The pilot projects shall—

(1) seek to reduce invasive aquatic vegetation, predators, and other competitors which contribute to the decline of native listed pelagic and anadromous species that occupy the Sacramento and San Joaquin Rivers and their tributaries and the Sacramento-San Joaquin Bay-Delta; and

(2) remove, reduce, or control the effects of species, including Asiatic clams, silversides, gobies, Brazilian water weed, largemouth bass, smallmouth bass, striped bass, crappie, bluegill, white and channel catfish, and brown bullheads.

(c) **SUNSET.**—The authorities provided under this subsection shall expire seven years after the Secretaries commence implementation of the pilot projects pursuant to subsection (a).

(d) **EMERGENCY ENVIRONMENTAL REVIEWS.**—To expedite the environmentally beneficial programs for the conservation of threatened and endangered species, the Secretaries shall consult with the Council on Environmental Quality in accordance with section 1506.11 of title 40, Code of Federal Regulations (or successor regulations), to develop alternative arrangements to comply with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) for the projects pursuant to subsection (a).

TITLE III—OPERATIONAL FLEXIBILITY AND DROUGHT RELIEF

SEC. 301. DEFINITIONS.

In this title:

(1) **CENTRAL VALLEY PROJECT.**—The term “Central Valley Project” has the meaning given the term in section 3403 of the Central Valley Project Improvement Act (Public Law 102–575; 106 Stat. 4707).

(2) **RECLAMATION PROJECT.**—The term “Reclamation Project” means a project constructed pursuant to the authorities of the reclamation laws and whose facilities are wholly or partially located in the State.

(3) **SECRETARIES.**—The term “Secretaries” means—

- (A) the Secretary of Agriculture;
- (B) the Secretary of Commerce; and
- (C) the Secretary of the Interior.

(4) **STATE WATER PROJECT.**—The term “State Water Project” means the water project described by California Water Code section 11550 et seq. and operated by the California Department of Water Resources.

(5) **STATE.**—The term “State” means the State of California.

SEC. 302. OPERATIONAL FLEXIBILITY IN TIMES OF DROUGHT.

(a) **WATER SUPPLIES.**—For the period of time such that in any year that the Sacramento Valley Index is 6.5 or lower, or at the request of the State of California, and until two succeeding years following either of those events have been completed where the final Sacramento Valley Index is 7.8 or greater, the Secretaries shall provide the maximum quantity of water supplies practicable to all individuals or district who receive Central Valley Project water under water service or repayments contracts, water rights settlement contracts, exchange contracts, or refuge contracts or agreements entered into prior to or after the date of enactment of this title; State Water Project contractors, and any other tribe, locality, water agency, or municipality in the State, by approving, consistent with applicable laws (including regulations), projects and operations to provide additional water supplies as quickly as practicable based on available information to address the emergency conditions.

(b) **ADMINISTRATION.**—In carrying out subsection (a), the Secretaries shall, consistent with applicable laws (including regulations)—

(1) issue all necessary permit decisions under the authority of the Secretaries not later than 30 days after the date on which the Secretaries receive a completed application from the State to place and use temporary barriers or operable gates in Delta channels to improve water quantity and quality for the State Water Project and the Central Valley Project south of Delta water contractors and other water users, on the condition that the barriers or operable gates—

(A) do not result in a significant negative impact on the long-term survival of listed species within the Delta and provide benefits or have a neutral impact on in-Delta water user water quality; and

(B) are designed so that formal consultations under section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1536) are not necessary;

(2) require the Director of the United States Fish and Wildlife Service and the Commissioner of Reclamation—

(A) to complete, not later than 30 days after the date on which the Director or the Commissioner receives a complete written request for water transfer, all requirements under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) necessary to make final permit decisions on the request; and

(B) to approve any water transfer request described in subparagraph (A) to maximize the quantity of water supplies available for nonhabitat uses, on the condition that actions associated with the water transfer comply with applicable Federal laws (including regulations);

(3) adopt a 1:1 inflow to export ratio, as measured as a 3-day running average at Vernalis during the period beginning on April 1, and ending on May 31, absent a determination in writing that a more restrictive inflow to export ratio is required to avoid a significant negative impact on the long-term survival of a listed salmonid species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.); provided that the 1:1 inflow to export ratio shall apply for the increment of increased flow of the San Joaquin River resulting from the voluntary sale, transfers, or exchanges of water from agencies with rights to divert water from the San Joaquin River or its tributaries and provided that the movement of the acquired, transferred, or exchanged water through the Delta consistent with the Central Valley Project's and the State Water Project's permitted water rights and provided that movement of the Central Valley Project water is consistent with the requirements of section 3405(a)(1)(H) of the Central Valley Project Improvement Act; and

(4) allow and facilitate, consistent with existing priorities, water transfers through the C.W. "Bill" Jones Pumping Plant or the Harvey O. Banks Pumping Plant from April 1 to November 30 provided water transfers comply with State law, including the California Environmental Quality Act.

(c) ACCELERATED PROJECT DECISION AND ELEVATION.—

(1) IN GENERAL.—On request by the Governor of the State, the Secretaries shall use the expedited procedures under this subsection to make final decisions relating to a Federal project or operation, or to local or State projects or operations that require decisions by the Secretary of the Interior or the Secretary of Commerce to provide additional water supplies if the project's or operation's purpose is to provide relief for emergency drought conditions pursuant to subsections (a) and (b).

(2) REQUEST FOR RESOLUTION.—

(A) IN GENERAL.—On request by the Governor of the State, the Secretaries referenced in paragraph (1), or the head of another Federal agency responsible for carrying out a review of a project, as applicable, the Secretary of the Interior shall convene a final project decision meeting with the heads of all relevant Federal agencies to decide whether to approve a project to provide relief for emergency drought conditions.

(B) MEETING.—The Secretary of the Interior shall convene a meeting requested under subparagraph (A) not later than 7 days after the date on which the meeting request is received.

(3) NOTIFICATION.—On receipt of a request for a meeting under paragraph (2), the Secretary of the Interior shall notify the heads of all relevant Federal agencies of the request, including information on the project to be reviewed and the date of the meeting.

(4) **DECISION.**—Not later than 10 days after the date on which a meeting is requested under paragraph (2), the head of the relevant Federal agency shall issue a final decision on the project, subject to subsection (e)(2).

(5) **MEETING CONVENED BY SECRETARY.**—The Secretary of the Interior may convene a final project decision meeting under this subsection at any time, at the discretion of the Secretary, regardless of whether a meeting is requested under paragraph (2).

(d) **APPLICATION.**—To the extent that a Federal agency, other than the agencies headed by the Secretaries, has a role in approving projects described in subsections (a) and (b), this section shall apply to those Federal agencies.

(e) **LIMITATION.**—Nothing in this section authorizes the Secretaries to approve projects—

(1) that would otherwise require congressional authorization; or

(2) without following procedures required by applicable law.

(f) **DROUGHT PLAN.**—For the period of time such that in any year that the Sacramento Valley index is 6.5 or lower, or at the request of the State of California, and until two succeeding years following either of those events have been completed where the final Sacramento Valley Index is 7.8 or greater, the Secretaries of Commerce and the Interior, in consultation with appropriate State officials, shall develop a drought operations plan that is consistent with the provisions of this Act including the provisions that are intended to provide additional water supplies that could be of assistance during the current drought.

SEC. 303. OPERATION OF CROSS-CHANNEL GATES.

(a) **IN GENERAL.**—The Secretary of Commerce and the Secretary of the Interior shall jointly—

(1) authorize and implement activities to ensure that the Delta Cross Channel Gates remain open to the maximum extent practicable using findings from the United States Geological Survey on diurnal behavior of juvenile salmonids, timed to maximize the peak flood tide period and provide water supply and water quality benefits for the duration of the drought emergency declaration of the State, and for the period of time such that in any year that the Sacramento Valley index is 6.5 or lower, or at the request of the State of California, and until two succeeding years following either of those events have been completed where the final Sacramento Valley Index is 7.8 or greater, consistent with operational criteria and monitoring criteria set forth into the Order Approving a Temporary Urgency Change in License and Permit Terms in Response to Drought Conditions of the California State Water Resources Control Board, effective January 31, 2014 (or a successor order) and other authorizations associated with it;

(2) with respect to the operation of the Delta Cross Channel Gates described in paragraph (1), collect data on the impact of that operation on—

(A) species listed as threatened or endangered under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

(B) water quality; and

(C) water supply;

(3) collaborate with the California Department of Water Resources to install a deflection barrier at Georgiana Slough in coordination with Delta Cross Channel Gate diurnal operations to protect migrating salmonids, consistent with knowledge gained from activities carried out during 2014 and 2015;

(4) evaluate the combined salmonid survival in light of activities carried out pursuant to paragraphs (1) through (3) in deciding how to operate the Delta Cross Channel gates to enhance salmonid survival and water supply benefits; and

(5) not later than May 15, 2016, submit to the appropriate committees of the House of Representatives and the Senate a notice and explanation on the extent to which the gates are able to remain open.

(b) **RECOMMENDATIONS.**—After assessing the information collected under subsection (a), the Secretary of the Interior shall recommend revisions to the operation of the Delta Cross-Channel Gates, to the Central Valley Project, and to the State Water Project, including, if appropriate, any reasonable and prudent alternative contained in the biological opinion issued by the National Marine Fisheries Service on June 4, 2009, that are likely to produce water supply benefits without causing a significant negative impact on the long-term survival of the listed fish species within the Delta or on water quality.

SEC. 304. FLEXIBILITY FOR EXPORT/INFLOW RATIO.

For the period of time such that in any year that the Sacramento Valley index is 6.5 or lower, or at the request of the State of California, and until two succeeding years following either of those events have been completed where the final Sacramento Valley Index is 7.8 or greater, the Commissioner of the Bureau of Reclamation shall continue to vary the averaging period of the Delta Export/Inflow ratio pursuant to the California State Water Resources Control Board decision D1641—

- (1) to operate to a 35-percent Export/Inflow ratio with a 3-day averaging period on the rising limb of a Delta inflow hydrograph; and
- (2) to operate to a 14-day averaging period on the falling limb of the Delta inflow hydrograph.

SEC. 305. EMERGENCY ENVIRONMENTAL REVIEWS.

(a) **NEPA COMPLIANCE.**—To minimize the time spent carrying out environmental reviews and to deliver water quickly that is needed to address emergency drought conditions in the State during the duration of an emergency drought declaration, the Secretaries shall, in carrying out this Act, consult with the Council on Environmental Quality in accordance with section 1506.11 of title 40, Code of Federal Regulations (including successor regulations), to develop alternative arrangements to comply with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) during the emergency.

(b) **DETERMINATIONS.**—For the purposes of this section, a Secretary may deem a project to be in compliance with all necessary environmental regulations and reviews if the Secretary determines that the immediate implementation of the project is necessary to address—

- (1) human health and safety; or
- (2) a specific and imminent loss of agriculture production upon which an identifiable region depends for 25 percent or more of its tax revenue used to support public services including schools, fire or police services, city or county health facilities, unemployment services or other associated social services.

SEC. 306. INCREASED FLEXIBILITY FOR REGULAR PROJECT OPERATIONS.

The Secretaries shall, consistent with applicable laws (including regulations)—

- (1) in coordination with the California Department of Water Resources and the California Department of Fish and Wildlife, implement offsite upstream projects in the Delta and upstream of the Sacramento River and San Joaquin basins that offset the effects on species listed as threatened or endangered under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) due to activities carried out pursuant to this Act, as determined by the Secretaries;
- (2) manage reverse flow in the Old and Middle Rivers at -6,100 cubic feet per second if real-time monitoring indicates that flows of -6,100 cubic feet per second or more negative can be established for specific periods without causing a significant negative impact on the long-term survival of the Delta smelt, or if real-time monitoring does not support flows of -6,100 cubic feet per second than manage OMR flows at -5,000 cubic feet per second subject to section 103(e) (3) and (4); and
- (3) use all available scientific tools to identify any changes to real-time operations of the Bureau of Reclamation, State, and local water projects that could result in the availability of additional water supplies.

SEC. 307. TEMPORARY OPERATIONAL FLEXIBILITY FOR FIRST FEW STORMS OF THE WATER YEAR.

(a) **IN GENERAL.**—Consistent with avoiding a significant negative impact on the long-term survival in the short term upon listed fish species beyond the range of those authorized under the Endangered Species Act of 1973 and other environmental protections under subsection (e), the Secretaries shall authorize the Central Valley Project and the State Water Project, combined, to operate at levels that result in negative OMR flows at -7,500 cubic feet per second (based on United States Geological Survey gauges on Old and Middle Rivers) daily average for 56 cumulative days after October 1 as described in subsection (c).

(b) **DAYS OF TEMPORARY OPERATIONAL FLEXIBILITY.**—The temporary operational flexibility described in subsection (a) shall be authorized on days that the California Department of Water Resources determines the daily average river flow of the Sacramento River is at, or above, 17,000 cubic feet per second as measured at the Sacramento River at Freeport gauge maintained by the United States Geologic Survey.

(c) **COMPLIANCE WITH ENDANGERED SPECIES ACT AUTHORIZATIONS.**—In carrying out this section, the Secretaries may continue to impose any requirements under the

smelt and salmonid biological opinions during any period of temporary operational flexibility as they determine are reasonably necessary to avoid an additional significant negative impacts on the long-term survival of a listed fish species beyond the range of those authorized under the Endangered Species Act of 1973, provided that the requirements imposed do not reduce water supplies available for the Central Valley Project and the State Water Project.

(d) OTHER ENVIRONMENTAL PROTECTIONS.—

(1) STATE LAW.—The Secretaries' actions under this section shall be consistent with applicable regulatory requirements under State law.

(2) FIRST SEDIMENT FLUSH.—During the first flush of sediment out of the Delta in each water year, and provided that such determination is based upon objective evidence, OMR flow may be managed at rates less negative than -5,000 cubic feet per second for a minimum duration to avoid movement of adult Delta smelt (*Hypomesus transpacificus*) to areas in the southern Delta that would be likely to increase entrainment at Central Valley Project and State Water Project pumping plants.

(3) APPLICABILITY OF OPINION.—This section shall not affect the application of the salmonid biological opinion from April 1 to May 31, unless the Secretary of Commerce finds that some or all of such applicable requirements may be adjusted during this time period to provide emergency water supply relief without resulting in additional adverse effects beyond those authorized under the Endangered Species Act of 1973. In addition to any other actions to benefit water supply, the Secretary of the Interior and the Secretary of Commerce shall consider allowing through-Delta water transfers to occur during this period if they can be accomplished consistent with section 3405(a)(1)(H) of the Central Valley Project Improvement Act. Water transfers solely or exclusively through the State Water Project are not required to be consistent with section 3405(a)(1)(H) of the Central Valley Project Improvement Act.

(4) MONITORING.—During operations under this section, the Commissioner of Reclamation, in coordination with the Fish and Wildlife Service, National Marine Fisheries Service, and California Department of Fish and Wildlife, shall undertake a monitoring program and other data gathering to ensure incidental take levels are not exceeded, and to identify potential negative impacts and actions, if any, necessary to mitigate impacts of the temporary operational flexibility to species listed under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

(e) TECHNICAL ADJUSTMENTS TO TARGET PERIOD.—If, before temporary operational flexibility has been implemented on 56 cumulative days, the Secretaries operate the Central Valley Project and the State Water Project combined at levels that result in OMR flows less negative than -7,500 cubic feet per second during days of temporary operational flexibility as defined in subsection (c), the duration of such operation shall not be counted toward the 56 cumulative days specified in subsection (a).

(f) EMERGENCY CONSULTATION; EFFECT ON RUNNING AVERAGES.—

(1) If necessary to implement the provisions of this section, the Commissioner is authorized to take any action necessary to implement this section for up to 56 cumulative days. If during the 56 cumulative days the Commissioner determines that actions necessary to implement this section will exceed 56 days, the Commissioner shall use the emergency consultation procedures under the Endangered Species Act of 1973 and its implementing regulation at section 402.05 of title 50, Code of Federal Regulations, to temporarily adjust the operating criteria under the biological opinions—

(A) solely for extending beyond the 56 cumulative days for additional days of temporary operational flexibility—

(i) no more than necessary to achieve the purposes of this section consistent with the environmental protections in subsections (d) and (e); and

(ii) including, as appropriate, adjustments to ensure that the actual flow rates during the periods of temporary operational flexibility do not count toward the 5-day and 14-day running averages of tidally filtered daily OMR flow requirements under the biological opinions, or

(B) for other adjustments to operating criteria or to take other urgent actions to address water supply shortages for the least amount of time or volume of diversion necessary as determined by the Commissioner.

(2) Following the conclusion of the 56 cumulative days of temporary operational flexibility, or the extended number of days covered by the emergency

consultation procedures, the Commissioner shall not reinitiate consultation on these adjusted operations, and no mitigation shall be required, if the effects on listed fish species of these operations under this section remain within the range of those authorized under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.). If the Commissioner reinitiates consultation, no mitigation measures shall be required.

(g) **LEVEL OF DETAIL REQUIRED FOR ANALYSIS.**—In articulating the determinations required under this section, the Secretaries shall fully satisfy the requirements herein but shall not be expected to provide a greater level of supporting detail for the analysis than feasible to provide within the short timeframe permitted for timely decisionmaking in response to changing conditions in the Delta.

SEC. 308. EXPEDITING WATER TRANSFERS.

(a) **IN GENERAL.**—Section 3405(a) of the Central Valley Project Improvement Act (Public Law 102–575; 106 Stat. 4709(a)) is amended—

(1) by redesignating paragraphs (1) through (3) as paragraphs (4) through (6), respectively;

(2) in the matter preceding paragraph (4) (as so designated)—

(A) in the first sentence, by striking “In order to” and inserting the following:

“(1) **IN GENERAL.**—In order to”; and

(B) in the second sentence, by striking “Except as provided herein” and inserting the following:

“(3) **TERMS.**—Except as otherwise provided in this section”;

(3) by inserting before paragraph (3) (as so designated) the following:

“(2) **EXPEDITED TRANSFER OF WATER.**—The Secretary shall take all necessary actions to facilitate and expedite transfers of Central Valley Project water in accordance with—

“(A) this Act;

“(B) any other applicable provision of the reclamation laws; and

“(C) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).”;

(4) in paragraph (4) (as so designated)—

(A) in subparagraph (A), by striking “to combination” and inserting “or combination”; and

(B) by striking “3405(a)(2) of this title” each place it appears and inserting “(5)”;

(5) in paragraph (5) (as so designated), by adding at the end the following:

“(E) The contracting district from which the water is coming, the agency, or the Secretary shall determine if a written transfer proposal is complete within 45 days after the date of submission of the proposal. If the contracting district or agency or the Secretary determines that the proposal is incomplete, the district or agency or the Secretary shall state with specificity what must be added to or revised for the proposal to be complete.”;

and

(6) in paragraph (6) (as so designated), by striking “3405(a)(1)(A)-(C), (E), (G), (H), (I), (L), and (M) of this title” and inserting “(A) through (C), (E), (G), (H), (I), (L), and (M) of paragraph (4)”.

(b) **CONFORMING AMENDMENTS.**—The Central Valley Project Improvement Act (Public Law 102–575) is amended—

(1) in section 3407(c)(1) (106 Stat. 4726), by striking “3405(a)(1)(C)” and inserting “3405(a)(4)(C)”; and

(2) in section 3408(i)(1) (106 Stat. 4729), by striking “3405(a)(1) (A) and (J) of this title” and inserting “subparagraphs (A) and (J) of section 3405(a)(4)”.

SEC. 309. ADDITIONAL EMERGENCY CONSULTATION.

For adjustments to operating criteria other than under section 308 of this Act or to take urgent actions to address water supply shortages for the least amount of time or volume of diversion necessary as determined by the Commissioner of Reclamation, no mitigation measures shall be required during any year that the Sacramento Valley index is 6.5 or lower, or at the request of the State of California, and until two succeeding years following either of those events have been completed where the final Sacramento Valley Index is 7.8 or greater, and any mitigation measures imposed must be based on quantitative data and required only to the extent that such data demonstrates actual harm to species.

SEC. 310. ADDITIONAL STORAGE AT NEW MELONES.

The Commissioner of Reclamation is directed to work with local water and irrigation districts in the Stanislaus River Basin to ascertain the water storage made available by the Draft Plan of Operations in New Melones Reservoir (DRPO) for water conservation programs, conjunctive use projects, water transfers, rescheduled project water and other projects to maximize water storage and ensure the beneficial use of the water resources in the Stanislaus River Basin. All such programs and projects shall be implemented according to all applicable laws and regulations. The source of water for any such storage program at New Melones Reservoir shall be made available under a valid water right, consistent with the State of California water transfer guidelines and any other applicable State water law. The Commissioner shall inform the Congress within 18 months setting forth the amount of storage made available by the DRPO that has been put to use under this program, including proposals received by the Commissioner from interested parties for the purpose of this section.

SEC. 311. REGARDING THE OPERATION OF FOLSOM RESERVOIR.

The Secretary of the Interior, in collaboration with the Sacramento Water Forum, shall expedite evaluation, completion and implementation of the Modified Lower American River Flow Management Standard developed by the Water Forum in 2015 to improve water supply reliability for Central Valley Project American River water contractors and resource protection in the lower American River during consecutive dry-years under current and future demand and climate change conditions.

SEC. 312. APPLICANTS.

In the event that the Bureau of Reclamation or another Federal agency initiates or reinitiates consultation with the U.S. Fish and Wildlife Service or the National Marine Fisheries Service under section 7(a)(2) of the Endangered Species Act of 1973 (16 U.S.C. 1536(a)(2)), with respect to construction or operation of the Central Valley Project and State Water Project, or any part thereof, the State Water Project contractors and the Central Valley Project contractors will be accorded all the rights and responsibilities extended to applicants in the consultation process.

SEC. 313. SAN JOAQUIN RIVER SETTLEMENT.**(a) CALIFORNIA STATE LAW SATISFIED BY WARM WATER FISHERY.—**

(1) **IN GENERAL.**—Sections 5930 through 5948 of the California Fish and Game Code, and all applicable Federal laws, including the San Joaquin River Restoration Settlement Act (Public Law 111–11) and the Stipulation of Settlement (Natural Resources Defense Council, et al. v. Kirk Rodgers, et al., Eastern District of California, No. Civ. S–88–1658–LKK/GGH), shall be satisfied by the existence of a warm water fishery in the San Joaquin River below Friant Dam, but upstream of Gravelly Ford.

(2) **DEFINITION OF WARM WATER FISHERY.**—For the purposes of this section, the term “warm water fishery” means a water system that has an environment suitable for species of fish other than salmon (including all subspecies) and trout (including all subspecies).

(b) REPEAL OF THE SAN JOAQUIN RIVER SETTLEMENT.—As of the date of enactment of this section, the Secretary of the Interior shall cease any action to implement the San Joaquin River Restoration Settlement Act (subtitle A of title X of Public Law 111–11) and the Stipulation of Settlement (Natural Resources Defense Council, et al. v. Kirk Rodgers, et al., Eastern District of California, No. Civ. S–88–1658 LKK/GGH).

SEC. 314. PROGRAM FOR WATER RESCHEDULING.

By December 31, 2015, the Secretary of the Interior shall develop and implement a program, including rescheduling guidelines for Shasta and Folsom Reservoirs, to allow existing Central Valley Project agricultural water service contractors within the Sacramento River Watershed, and refuge service and municipal and industrial water service contractors within the Sacramento River Watershed and the American River Watershed to reschedule water, provided for under their Central Valley Project contracts, from one year to the next; provided, that the program is consistent with existing rescheduling guidelines as utilized by the Bureau of Reclamation for rescheduling water for Central Valley Project water service contractors that are located South of the Delta.

TITLE IV—CALFED STORAGE FEASIBILITY STUDIES

SEC. 401. STUDIES.

The Secretary of the Interior, through the Commissioner of Reclamation, shall—

(1) complete the feasibility studies described in clauses (i)(I) and (ii)(II) of section 103(d)(1)(A) of Public Law 108–361 (118 Stat. 1684) and submit such studies to the appropriate committees of the House of Representatives and the Senate not later than December 31, 2015;

(2) complete the feasibility studies described in clauses (i)(II) and (ii)(I) of section 103(d)(1)(A) of Public Law 108–361 and submit such studies to the appropriate committees of the House of Representatives and the Senate not later than November 30, 2016;

(3) complete the feasibility study described in section 103(f)(1)(A) of Public Law 108–361 (118 Stat. 1694) and submit such study to the appropriate Committees of the House of Representatives and the Senate not later than December 31, 2017;

(4) provide a progress report on the status of the feasibility studies referred to in paragraphs (1) through (3) to the appropriate committees of the House of Representatives and the Senate not later than 90 days after the date of the enactment of this Act and each 180 days thereafter until December 31, 2017, as applicable. The report shall include timelines for study completion, draft environmental impact statements, final environmental impact statements, and Records of Decision;

(5) in conducting any feasibility study under this Act, the reclamation laws, the Central Valley Project Improvement Act (title XXXIV of Public Law 102–575; 106 Stat. 4706), the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.), the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), and other applicable law, for the purposes of determining feasibility the Secretary shall document, delineate, and publish costs directly relating to the engineering and construction of a water storage project separately from the costs resulting from regulatory compliance or the construction of auxiliary facilities necessary to achieve regulatory compliance; and

(6) communicate, coordinate and cooperate with public water agencies that contract with the United States for Central Valley Project water and that are expected to participate in the cost pools that will be created for the projects proposed in the feasibility studies under this section.

SEC. 402. TEMPERANCE FLAT.

(a) DEFINITIONS.—For the purposes of this section:

(1) PROJECT.—The term “Project” means the Temperance Flat Reservoir Project on the Upper San Joaquin River.

(2) RMP.—The term “RMP” means the document titled “Bakersfield Field Office, Record of Decision and Approved Resource Management Plan,” dated December 2014.

(3) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

(b) APPLICABILITY OF RMP.—The RMP and findings related thereto shall have no effect on or applicability to the Secretary’s determination of feasibility of, or on any findings or environmental review documents related to—

(1) the Project; or

(2) actions taken by the Secretary pursuant to section 103(d)(1)(A)(ii)(II) of the Bay-Delta Authorization Act (title I of Public Law 108–361).

(c) DUTIES OF SECRETARY UPON DETERMINATION OF FEASIBILITY.—If the Secretary finds the Project to be feasible, the Secretary shall manage the land recommended in the RMP for designation under the Wild and Scenic Rivers Act (16 U.S.C. 1271 et seq.) in a manner that does not impede any environmental reviews, preconstruction, construction, or other activities of the Project, regardless of whether or not the Secretary submits any official recommendation to Congress under the Wild and Scenic Rivers Act.

(d) RESERVED WATER RIGHTS.—Effective December 22, 2014, there shall be no Federal reserved water rights to any segment of the San Joaquin River related to the Project as a result of any designation made under the Wild and Scenic Rivers Act (16 U.S.C. 1271 et seq.).

SEC. 403. CALFED STORAGE ACCOUNTABILITY.

If the Secretary of the Interior fails to provide the feasibility studies described in section 401 to the appropriate committees of the House of Representatives and the Senate by the times prescribed, the Secretary shall notify each committee chair individually in person on the status of each project once a month until the feasibility study for that project is provided to Congress.

SEC. 404. WATER STORAGE PROJECT CONSTRUCTION.

(a) **PARTNERSHIP AND AGREEMENTS.**—The Secretary of the Interior, acting through the Commissioner of the Bureau of Reclamation, may partner or enter into an agreement on the water storage projects identified in section 103(d)(1) of the Water Supply Reliability and Environmental Improvement Act (Public Law 108-361) (and Acts supplemental and amendatory to the Act) with local joint powers authorities formed pursuant to State law by irrigation districts and other local water districts and local governments within the applicable hydrologic region, to advance those projects.

(b) **AUTHORIZATION FOR PROJECT.**—If the Secretary determines a project described in section 402(a)(1) and (2) is feasible, the Secretary is authorized to carry out the project in a manner that is substantially in accordance with the recommended plan, and subject to the conditions described in the feasibility study, provided that no Federal funding shall be used to construct the project.

TITLE V—WATER RIGHTS PROTECTIONS

SEC. 501. OFFSET FOR STATE WATER PROJECT.

(a) **IMPLEMENTATION IMPACTS.**—The Secretary of the Interior shall confer with the California Department of Fish and Wildlife in connection with the implementation of this Act on potential impacts to any consistency determination for operations of the State Water Project issued pursuant to California Fish and Game Code section 2080.1.

(b) **ADDITIONAL YIELD.**—If, as a result of the application of this Act, the California Department of Fish and Wildlife—

(1) revokes the consistency determinations pursuant to California Fish and Game Code section 2080.1 that are applicable to the State Water Project;

(2) amends or issues one or more new consistency determinations pursuant to California Fish and Game Code section 2080.1 in a manner that directly or indirectly results in reduced water supply to the State Water Project as compared with the water supply available under the smelt biological opinion and the salmonid biological opinion; or

(3) requires take authorization under California Fish and Game Code section 2081 for operation of the State Water Project in a manner that directly or indirectly results in reduced water supply to the State Water Project as compared with the water supply available under the smelt biological opinion and the salmonid biological opinion, and as a consequence of the Department's action, Central Valley Project yield is greater than it would have been absent the Department's actions, then that additional yield shall be made available to the State Water Project for delivery to State Water Project contractors to offset losses resulting from the Department's action.

(c) **NOTIFICATION RELATED TO ENVIRONMENTAL PROTECTIONS.**—The Secretary of the Interior shall immediately notify the Director of the California Department of Fish and Wildlife in writing if the Secretary of the Interior determines that implementation of the smelt biological opinion and the salmonid biological opinion consistent with this Act reduces environmental protections for any species covered by the opinions.

SEC. 502. AREA OF ORIGIN PROTECTIONS.

(a) **IN GENERAL.**—The Secretary of the Interior is directed, in the operation of the Central Valley Project, to adhere to California's water rights laws governing water rights priorities and to honor water rights senior to those held by the United States for operation of the Central Valley Project, regardless of the source of priority, including any appropriative water rights initiated prior to December 19, 1914, as well as water rights and other priorities perfected or to be perfected pursuant to California Water Code Part 2 of Division 2, Article 1.7 (commencing with section 1215 of chapter 1 of part 2 of division 2, sections 10505, 10505.5, 11128, 11460, 11461, 11462, and 11463, and sections 12200 to 12220, inclusive).

(b) **DIVERSIONS.**—Any action undertaken by the Secretary of the Interior and the Secretary of Commerce pursuant to both this Act and section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) that requires that diversions from the Sacramento River or the San Joaquin River watersheds upstream of the Delta be bypassed shall not be undertaken in a manner that alters the water rights priorities established by California law.

(c) **ENDANGERED SPECIES ACT.**—Nothing in this title alters the existing authorities provided to and obligations placed upon the Federal Government under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), as amended.

(d) **CONTRACTS.**—With respect to individuals and entities with water rights on the Sacramento River, the mandates of this section may be met, in whole or in part, through a contract with the Secretary of the Interior executed pursuant to section 14 of Public Law 76–260; 53 Stat. 1187 (43 U.S.C. 389) that is in conformance with the Sacramento River Settlement Contracts renewed by the Secretary of the Interior in 2005.

SEC. 503. NO REDIRECTED ADVERSE IMPACTS.

(a) **IN GENERAL.**—The Secretary of the Interior shall ensure that, except as otherwise provided for in a water service or repayment contract, actions taken in compliance with legal obligations imposed pursuant to or as a result of this Act, including such actions under section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) and other applicable Federal and State laws, shall not directly or indirectly—

(1) result in the involuntary reduction of water supply or fiscal impacts to individuals or districts who receive water from either the State Water Project or the United States under water rights settlement contracts, exchange contracts, water service contracts, repayment contracts, or water supply contracts; or

(2) cause redirected adverse water supply or fiscal impacts to those within the Sacramento River watershed, the San Joaquin River watershed or the State Water Project service area.

(b) **COSTS.**—To the extent that costs are incurred solely pursuant to or as a result of this Act and would not otherwise have been incurred by any entity or public or local agency or subdivision of the State of California, such costs shall not be borne by any such entity, agency, or subdivision of the State of California, unless such costs are incurred on a voluntary basis.

(c) **RIGHTS AND OBLIGATIONS NOT MODIFIED OR AMENDED.**—Nothing in this Act shall modify or amend the rights and obligations of the parties to any existing—

(1) water service, repayment, settlement, purchase, or exchange contract with the United States, including the obligation to satisfy exchange contracts and settlement contracts prior to the allocation of any other Central Valley Project water; or

(2) State Water Project water supply or settlement contract with the State.

SEC. 504. ALLOCATIONS FOR SACRAMENTO VALLEY CONTRACTORS.

(a) **ALLOCATIONS.**—

(1) **IN GENERAL.**—Subject to paragraph (2) and subsection (b), the Secretary of the Interior is directed, in the operation of the Central Valley Project, to allocate water provided for irrigation purposes to existing Central Valley Project agricultural water service contractors within the Sacramento River Watershed in compliance with the following:

(A) Not less than 100 percent of their contract quantities in a “Wet” year.

(B) Not less than 100 percent of their contract quantities in an “Above Normal” year.

(C) Not less than 100 percent of their contract quantities in a “Below Normal” year that is preceded by an “Above Normal” or a “Wet” year.

(D) Not less than 50 percent of their contract quantities in a “Dry” year that is preceded by a “Below Normal,” an “Above Normal,” or a “Wet” year.

(E) In all other years not identified herein, the allocation percentage for existing Central Valley Project agricultural water service contractors within the Sacramento River Watershed shall not be less than twice the allocation percentage to south-of-Delta Central Valley Project agricultural water service contractors, up to 100 percent; provided, that nothing herein shall preclude an allocation to existing Central Valley Project agricultural water service contractors within the Sacramento River Watershed that is greater than twice the allocation percentage to south-of-Delta Central Valley Project agricultural water service contractors.

(2) **CONDITIONS.**—The Secretary's actions under paragraph (a) shall be subject to—

(A) the priority of individuals or entities with Sacramento River water rights, including those with Sacramento River Settlement Contracts, that have priority to the diversion and use of Sacramento River water over water rights held by the United States for operations of the Central Valley Project;

(B) the United States obligation to make a substitute supply of water available to the San Joaquin River Exchange Contractors; and

(C) the Secretary's obligation to make water available to managed wetlands pursuant to section 3406(d) of the Central Valley Project Improvement Act (Public Law 102-575).

(b) **PROTECTION OF MUNICIPAL AND INDUSTRIAL SUPPLIES.**—Nothing in subsection (a) shall be deemed to—

(1) modify any provision of a water service contract that addresses municipal and industrial water shortage policies of the Secretary;

(2) affect or limit the authority of the Secretary to adopt or modify municipal and industrial water shortage policies;

(3) affect or limit the authority of the Secretary to implement municipal and industrial water shortage policies; or

(4) affect allocations to Central Valley Project municipal and industrial contractors pursuant to such policies.

Neither subsection (a) nor the Secretary's implementation of subsection (a) shall constrain, govern or affect, directly, the operations of the Central Valley Project's American River Division or any deliveries from that Division, its units or facilities.

(c) **NO EFFECT ON ALLOCATIONS.**—This section shall not—

(1) affect the allocation of water to Friant Division contractors; or

(2) result in the involuntary reduction in contract water allocations to individuals or entities with contracts to receive water from the Friant Division.

(d) **PROGRAM FOR WATER RESCHEDULING.**—The Secretary of the Interior shall develop and implement a program, not later than 1 year after the date of the enactment of this Act, to provide for the opportunity for existing Central Valley Project agricultural water service contractors within the Sacramento River Watershed to reschedule water, provided for under their Central Valley Project water service contracts, from one year to the next.

(e) **DEFINITIONS.**—In this section:

(1) The term "existing Central Valley Project agricultural water service contractors within the Sacramento River Watershed" means water service contractors within the Shasta, Trinity, and Sacramento River Divisions of the Central Valley Project, that have a water service contract in effect, on the date of the enactment of this section, that provides water for irrigation.

(2) The year type terms used in subsection (a) have the meaning given those year types in the Sacramento Valley Water Year Type (40-30-30) Index.

SEC. 505. EFFECT ON EXISTING OBLIGATIONS.

Nothing in this Act preempts or modifies any existing obligation of the United States under Federal reclamation law to operate the Central Valley Project in conformity with State law, including established water rights priorities.

TITLE VI—MISCELLANEOUS

SEC. 601. AUTHORIZED SERVICE AREA.

(a) **IN GENERAL.**—The authorized service area of the Central Valley Project authorized under the Central Valley Project Improvement Act (Public Law 102-575; 106 Stat. 4706) shall include the area within the boundaries of the Kettleman City Community Services District, California, as in existence on the date of enactment of this Act.

(b) **LONG-TERM CONTRACT.**—

(1) **IN GENERAL.**—Notwithstanding the Central Valley Project Improvement Act (Public Law 102-575; 106 Stat. 4706) and subject to paragraph (2), the Secretary of the Interior, in accordance with the Federal reclamation laws, shall enter into a long-term contract with the Kettleman City Community Services District, California, under terms and conditions mutually agreeable to the parties, for the delivery of up to 900 acre-feet of Central Valley Project water for municipal and industrial use.

(2) **LIMITATION.**—Central Valley Project water deliveries authorized under the contract entered into under paragraph (1) shall be limited to the minimal quantity necessary to meet the immediate needs of the Kettleman City Community Services District, California, in the event that local supplies or State Water Project allocations are insufficient to meet those needs.

(c) **PERMIT.**—The Secretary shall apply for a permit with the State for a joint place of use for water deliveries authorized under the contract entered into under subsection (b) with respect to the expanded service area under subsection (a), consistent with State law.

(d) **ADDITIONAL COSTS.**—If any additional infrastructure, water treatment, or related costs are needed to implement this section, those costs shall be the responsibility of the non-Federal entity.

SEC. 602. OVERSIGHT BOARD FOR RESTORATION FUND.

(a) **PLAN; ADVISORY BOARD.**—Section 3407 of the Central Valley Project Improvement Act (Public Law 102-575; 106 Stat. 4726) is amended by adding at the end the following:

“(g) **PLAN ON EXPENDITURE OF FUNDS.**—

“(1) **IN GENERAL.**—For each fiscal year, the Secretary, in consultation with the Advisory Board, shall submit to Congress a plan for the expenditure of all of the funds deposited into the Restoration Fund during the preceding fiscal year.

“(2) **CONTENTS.**—The plan shall include an analysis of the cost-effectiveness of each expenditure.

“(h) **ADVISORY BOARD.**—

“(1) **ESTABLISHMENT.**—There is established the Restoration Fund Advisory Board (referred to in this section as the ‘Advisory Board’), which shall be composed of 11 members appointed by the Secretary.

“(2) **MEMBERSHIP.**—

“(A) **IN GENERAL.**—The Secretary shall appoint members to the Advisory Board that represent the various Central Valley Project stakeholders, of whom—

“(i) 4 members shall be agricultural users of the Central Valley Project, including at least one agricultural user from north-of-the-Delta and one agricultural user from south-of-the-Delta;

“(ii) 2 members shall be municipal and industrial users of the Central Valley Project, including one municipal and industrial user from north-of-the-Delta and one municipal and industrial user from south-of-the-Delta;

“(iii) 3 members shall be power contractors of the Central Valley Project, including at least one power contractor from north-of-the-Delta and from south-of-the-Delta;

“(iv) 1 member shall be a representative of a Federal national wildlife refuge that contracts for Central Valley Project water supplies with the Bureau of Reclamation; and

“(v) 1 member shall have expertise in the economic impacts of the changes to water operations.

“(B) **OBSERVER.**—The Secretary and the Secretary of Commerce may each designate a representative to act as an observer of the Advisory Board.

“(C) **CHAIR.**—The Secretary shall appoint 1 of the members described in subparagraph (A) to serve as Chair of the Advisory Board.

“(3) **TERMS.**—The term of each member of the Advisory Board shall be 4 years.

“(4) **DATE OF APPOINTMENTS.**—The appointment of a member of the Panel shall be made not later than—

“(A) the date that is 120 days after the date of enactment of this Act; or

“(B) in the case of a vacancy on the Panel described in subsection (c)(2), the date that is 120 days after the date on which the vacancy occurs.

“(5) **VACANCIES.**—

“(A) **IN GENERAL.**—A vacancy on the Panel shall be filled in the manner in which the original appointment was made and shall be subject to any conditions that applied with respect to the original appointment.

“(B) **FILLING UNEXPIRED TERM.**—An individual chosen to fill a vacancy shall be appointed for the unexpired term of the member replaced.

“(C) **EXPIRATION OF TERMS.**—The term of any member shall not expire before the date on which the successor of the member takes office.

"(6) REMOVAL.—A member of the Panel may be removed from office by the Secretary of the Interior.

"(7) FEDERAL ADVISORY COMMITTEE ACT.—The Panel shall not be subject to the requirements of the Federal Advisory Committee Act.

"(8) DUTIES.—The duties of the Advisory Board are—

"(A) to meet not less frequently than semiannually to develop and make recommendations to the Secretary regarding priorities and spending levels on projects and programs carried out under this title;

"(B) to ensure that any advice given or recommendation made by the Advisory Board reflects the independent judgment of the Advisory Board;

"(C) not later than December 31, 2015, and annually thereafter, to submit to the Secretary and Congress the recommendations under subparagraph (A); and

"(D) not later than December 31, 2015, and biennially thereafter, to submit to Congress details of the progress made in achieving the actions required under section 3406.

"(9) ADMINISTRATION.—With the consent of the appropriate agency head, the Advisory Board may use the facilities and services of any Federal agency.

"(10) COOPERATION AND ASSISTANCE.—

"(A) PROVISION OF INFORMATION.—Upon request of the Panel Chair for information or assistance to facilitate carrying out this section, the Secretary of the Interior shall promptly provide such information, unless otherwise prohibited by law.

"(B) SPACE AND ASSISTANCE.—The Secretary of the Interior shall provide the Panel with appropriate and adequate office space, together with such equipment, office supplies, and communications facilities and services as may be necessary for the operation of the Panel, and shall provide necessary maintenance services for such offices and the equipment and facilities located therein."

SEC. 603. WATER SUPPLY ACCOUNTING.

(a) IN GENERAL.—All Central Valley Project water, except Central Valley Project water released pursuant to U.S. Department of the Interior Record of Decision, Trinity River Mainstem Fishery Restoration Final Environmental Impact Statement/Environmental Impact Report dated December 2000 used to implement an action undertaken for a fishery beneficial purpose that was not imposed by terms and conditions existing in licenses, permits, and other agreements pertaining to the Central Valley Project under applicable State or Federal law existing on October 30, 1992, shall be credited to the quantity of Central Valley Project yield dedicated and managed under this section; provided, that nothing herein shall affect the Secretary of the Interior's duty to comply with any otherwise lawful requirement imposed on operations of the Central Valley Project under any provision of Federal or State law.

(b) RECLAMATION POLICIES AND ALLOCATIONS.—Reclamation policies and allocations shall not be based upon any premise or assumption that Central Valley Project contract supplies are supplemental or secondary to any other contractor source of supply.

SEC. 604. IMPLEMENTATION OF WATER REPLACEMENT PLAN.

(a) IN GENERAL.—Not later than October 1, 2016, the Secretary of the Interior shall update and implement the plan required by section 3408(j) of title XXXIV of Public Law 102–575. The Secretary shall notify the Congress annually describing the progress of implementing the plan required by section 3408(j) of title XXXIV of Public Law 102–575.

(b) POTENTIAL AMENDMENT.—If the plan required in subsection (a) has not increased the Central Valley Project yield by 800,000 acre-feet within 5 years after the enactment of this Act, then section 3406 of the Central Valley Project Improvement Act (title XXXIV of Public Law 102–575) is amended as follows:

(1) In subsection (b)—

(A) by amending paragraph (2)(C) to read:

"(C) If by March 15, 2021, and any year thereafter the quantity of Central Valley Project water forecasted to be made available to all water service or repayment contractors of the Central Valley Project is below 50 percent of the total quantity of water to be made available under said contracts, the quantity of Central Valley Project yield dedicated and managed for that year under this paragraph shall be reduced by 25 percent."

SEC. 605. NATURAL AND ARTIFICIALLY SPAWNED SPECIES.

After the date of the enactment of this title, and regardless of the date of listing, the Secretaries of the Interior and Commerce shall not distinguish between natural-spawned and hatchery-spawned or otherwise artificially propagated strains of a species in making any determination under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) that relates to any anadromous or pelagic fish species that resides for all or a portion of its life in the Sacramento-San Joaquin Delta or rivers tributary thereto.

SEC. 606. TRANSFER THE NEW MELONES UNIT, CENTRAL VALLEY PROJECT TO INTERESTED PROVIDERS.

(a) **DEFINITIONS.**—For the purposes of this section, the following terms apply:

(1) **INTERESTED LOCAL WATER AND POWER PROVIDERS.**—The term “interested local water and power providers” includes the Calaveras County Water District, Calaveras Public Power Agency, Central San Joaquin Water Conservation District, Oakdale Irrigation District, Stockton East Water District, South San Joaquin Irrigation District, Tuolumne Utilities District, Tuolumne Public Power Agency, and Union Public Utilities District.

(2) **NEW MELONES UNIT, CENTRAL VALLEY PROJECT.**—The term “New Melones Unit, Central Valley Project” means all Federal reclamation projects located within or diverting water from or to the watershed of the Stanislaus and San Joaquin rivers and their tributaries as authorized by the Act of August 26, 1937 (50 Stat. 850), and all Acts amendatory or supplemental thereto, including the Act of October 23, 1962 (76 Stat. 1173).

(3) **SECRETARY.**—The term “Secretary” means the Secretary of the Interior.

(b) **NEGOTIATIONS.**—Notwithstanding any other provision of law, not later than 180 days after the date of the enactment of this Act, the Secretary shall enter into negotiations with interested local water and power providers for the transfer ownership, control, and operation of the New Melones Unit, Central Valley Project to interested local water and power providers within the State of California.

(c) **TRANSFER.**—The Secretary shall transfer the New Melones Unit, Central Valley Project in accordance with an agreement reached pursuant to negotiations conducted under subsection (b).

(d) **NOTIFICATION.**—Not later than 360 days after the date of the enactment of this Act, and every 6 months thereafter, the Secretary shall notify the appropriate committees of the House of Representatives and the Senate—

(1) if an agreement is reached pursuant to negotiations conducted under subsection (b), the terms of that agreement;

(2) of the status of formal discussions with interested local water and power providers for the transfer of ownership, control, and operation of the New Melones Unit, Central Valley Project to interested local water and power providers;

(3) of all unresolved issues that are preventing execution of an agreement for the transfer of ownership, control, and operation of the New Melones Unit, Central Valley Project to interested local water and power providers;

(4) on analysis and review of studies, reports, discussions, hearing transcripts, negotiations, and other information about past and present formal discussions that—

(A) have a serious impact on the progress of the formal discussions;

(B) explain or provide information about the issues that prevent progress or finalization of formal discussions; or

(C) are, in whole or in part, preventing execution of an agreement for the transfer; and

(5) of any actions the Secretary recommends that the United States should take to finalize an agreement for that transfer.

SEC. 607. BASIN STUDIES.

(a) **AUTHORIZED STUDIES.**—The Secretary of the Interior is authorized and directed to expand opportunities and expedite completion of assessments under section 9503(b) of the SECURE Water Act (42 U.S.C. 10363(b)), with non-Federal partners, of individual sub-basins and watersheds within major Reclamation river basins; and shall ensure timely decision and expedited implementation of adaptation and mitigation strategies developed through the special study process.

(b) **FUNDING.**—

(1) **IN GENERAL.**—The non-Federal partners shall be responsible for 100 percent of the cost of the special studies.

(2) CONTRIBUTED FUNDS.—The Secretary may accept and use contributions of funds from the non-Federal partners to carry out activities under the special studies.

SEC. 608. OPERATIONS OF THE TRINITY RIVER DIVISION.

The Secretary of the Interior, in the operation of the Trinity River Division of the Central Valley Project, shall not make releases from Lewiston Dam in excess of the volume for each water-year type required by the U.S. Department of the Interior Record of Decision, Trinity River Mainstem Fishery Restoration Final Environmental Impact Statement/Environmental Impact Report dated December 2000.

- (1) A maximum of 369,000 acre-feet in a "Critically Dry" year.
- (2) A maximum of 453,000 acre-feet in a "Dry" year.
- (3) A maximum of 647,000 acre-feet in a "Normal" year.
- (4) A maximum of 701,000 acre-feet in a "Wet" year.
- (5) A maximum of 815,000 acre-feet in an "Extremely Wet" year.

SEC. 609. AMENDMENT TO PURPOSES.

Section 3402 of the Central Valley Project Improvement Act (106 Stat. 4706) is amended—

- (1) in subsection (f), by striking the period at the end; and
- (2) by adding at the end the following:
 "(g) to ensure that water dedicated to fish and wildlife purposes by this title is replaced and provided to Central Valley Project water contractors by December 31, 2018, at the lowest cost reasonably achievable; and
 "(h) to facilitate and expedite water transfers in accordance with this Act."

SEC. 610. AMENDMENT TO DEFINITION.

Section 3403 of the Central Valley Project Improvement Act (106 Stat. 4707) is amended—

- (1) by amending subsection (a) to read as follows:
 "(a) the term 'anadromous fish' means those native stocks of salmon (including steelhead) and sturgeon that, as of October 30, 1992, were present in the Sacramento and San Joaquin Rivers and their tributaries and ascend those rivers and their tributaries to reproduce after maturing in San Francisco Bay or the Pacific Ocean,"
- (2) in subsection (l), by striking "and,"
- (3) in subsection (m), by striking the period and inserting "; and"; and
- (4) by adding at the end the following:
 "(n) the term 'reasonable flow' means water flows capable of being maintained taking into account competing consumptive uses of water and economic, environmental, and social factors."

TITLE VII—WATER SUPPLY PERMITTING ACT

SEC. 701. SHORT TITLE.

This title may be cited as the "Water Supply Permitting Coordination Act".

SEC. 702. DEFINITIONS.

In this title:

- (1) SECRETARY.—The term "Secretary" means the Secretary of the Interior.
- (2) BUREAU.—The term "Bureau" means the Bureau of Reclamation.
- (3) QUALIFYING PROJECTS.—The term "qualifying projects" means new surface water storage projects in the States covered under the Act of June 17, 1902 (32 Stat. 388, chapter 1093), and Acts supplemental to and amendatory of that Act (43 U.S.C. 371 et seq.) constructed on lands administered by the Department of the Interior or the Department of Agriculture, exclusive of any easement, right-of-way, lease, or any private holding.
- (4) COOPERATING AGENCIES.—The term "cooperating agency" means a Federal agency with jurisdiction over a review, analysis, opinion, statement, permit, license, or other approval or decision required for a qualifying project under applicable Federal laws and regulations, or a State agency subject to section 703(c).

SEC. 703. ESTABLISHMENT OF LEAD AGENCY AND COOPERATING AGENCIES.

(a) ESTABLISHMENT OF LEAD AGENCY.—The Bureau of Reclamation is established as the lead agency for purposes of coordinating all reviews, analyses, opinions, state-

ments, permits, licenses, or other approvals or decisions required under Federal law to construct qualifying projects.

(b) IDENTIFICATION AND ESTABLISHMENT OF COOPERATING AGENCIES.—The Commissioner of the Bureau shall—

(1) identify, as early as practicable upon receipt of an application for a qualifying project, any Federal agency that may have jurisdiction over a review, analysis, opinion, statement, permit, license, approval, or decision required for a qualifying project under applicable Federal laws and regulations; and

(2) notify any such agency, within a reasonable timeframe, that the agency has been designated as a cooperating agency in regards to the qualifying project unless that agency responds to the Bureau in writing, within a timeframe set forth by the Bureau, notifying the Bureau that the agency—

(A) has no jurisdiction or authority with respect to the qualifying project;

(B) has no expertise or information relevant to the qualifying project or any review, analysis, opinion, statement, permit, license, or other approval or decision associated therewith; or

(C) does not intend to submit comments on the qualifying project or conduct any review of such a project or make any decision with respect to such project in a manner other than in cooperation with the Bureau.

(c) STATE AUTHORITY.—A State in which a qualifying project is being considered may choose, consistent with State law—

(1) to participate as a cooperating agency; and

(2) to make subject to the processes of this title all State agencies that—

(A) have jurisdiction over the qualifying project;

(B) are required to conduct or issue a review, analysis, or opinion for the qualifying project; or

(C) are required to make a determination on issuing a permit, license, or approval for the qualifying project.

SEC. 704. BUREAU RESPONSIBILITIES.

(a) IN GENERAL.—The principal responsibilities of the Bureau under this title are to—

(1) serve as the point of contact for applicants, State agencies, Indian tribes, and others regarding proposed qualifying projects;

(2) coordinate preparation of unified environmental documentation that will serve as the basis for all Federal decisions necessary to authorize the use of Federal lands for qualifying projects; and

(3) coordinate all Federal agency reviews necessary for project development and construction of qualifying projects.

(b) COORDINATION PROCESS.—The Bureau shall have the following coordination responsibilities:

(1) PRE-APPLICATION COORDINATION.—Notify cooperating agencies of proposed qualifying projects not later than 30 days after receipt of a proposal and facilitate a preapplication meeting for prospective applicants, relevant Federal and State agencies, and Indian tribes to—

(A) explain applicable processes, data requirements, and applicant submissions necessary to complete the required Federal agency reviews within the timeframe established; and

(B) establish the schedule for the qualifying project.

(2) CONSULTATION WITH COOPERATING AGENCIES.—Consult with the cooperating agencies throughout the Federal agency review process, identify and obtain relevant data in a timely manner, and set necessary deadlines for cooperating agencies.

(3) SCHEDULE.—Work with the qualifying project applicant and cooperating agencies to establish a project schedule. In establishing the schedule, the Bureau shall consider, among other factors—

(A) the responsibilities of cooperating agencies under applicable laws and regulations;

(B) the resources available to the cooperating agencies and the non-Federal qualifying project sponsor, as applicable;

(C) the overall size and complexity of the qualifying project;

(D) the overall schedule for and cost of the qualifying project; and

(E) the sensitivity of the natural and historic resources that may be affected by the qualifying project.

(4) ENVIRONMENTAL COMPLIANCE.—Prepare a unified environmental review document for each qualifying project application, incorporating a single environ-

mental record on which all cooperating agencies with authority to issue approvals for a given qualifying project shall base project approval decisions. Help ensure that cooperating agencies make necessary decisions, within their respective authorities, regarding Federal approvals in accordance with the following timelines:

(A) Not later than one year after acceptance of a completed project application when an environmental assessment and finding of no significant impact is determined to be the appropriate level of review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(B) Not later than one year and 30 days after the close of the public comment period for a draft environmental impact statement under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), when an environmental impact statement is required under the same.

(5) CONSOLIDATED ADMINISTRATIVE RECORD.—Maintain a consolidated administrative record of the information assembled and used by the cooperating agencies as the basis for agency decisions.

(6) PROJECT DATA RECORDS.—To the extent practicable and consistent with Federal law, ensure that all project data is submitted and maintained in generally accessible electronic format, compile, and where authorized under existing law, make available such project data to cooperating agencies, the qualifying project applicant, and to the public.

(7) PROJECT MANAGER.—Appoint a project manager for each qualifying project. The project manager shall have authority to oversee the project and to facilitate the issuance of the relevant final authorizing documents, and shall be responsible for ensuring fulfillment of all Bureau responsibilities set forth in this section and all cooperating agency responsibilities under section 705.

SEC. 705. COOPERATING AGENCY RESPONSIBILITIES.

(a) ADHERENCE TO BUREAU SCHEDULE.—Upon notification of an application for a qualifying project, all cooperating agencies shall submit to the Bureau a timeframe under which the cooperating agency reasonably considers it will be able to complete its authorizing responsibilities. The Bureau shall use the timeframe submitted under this subsection to establish the project schedule under section 704, and the cooperating agencies shall adhere to the project schedule established by the Bureau.

(b) ENVIRONMENTAL RECORD.—Cooperating agencies shall submit to the Bureau all environmental review material produced or compiled in the course of carrying out activities required under Federal law consistent with the project schedule established by the Bureau.

(c) DATA SUBMISSION.—To the extent practicable and consistent with Federal law, the cooperating agencies shall submit all relevant project data to the Bureau in a generally accessible electronic format subject to the project schedule set forth by the Bureau.

SEC. 706. FUNDING TO PROCESS PERMITS.

(a) IN GENERAL.—The Secretary, after public notice in accordance with the Administrative Procedures Act (5 U.S.C. 553), may accept and expend funds contributed by a non-Federal public entity to expedite the evaluation of a permit of that entity related to a qualifying project.

(b) EFFECT ON PERMITTING.—

(1) IN GENERAL.—In carrying out this section, the Secretary shall ensure that the use of funds accepted under subsection (a) will not impact impartial decisionmaking with respect to permits, either substantively or procedurally.

(2) EVALUATION OF PERMITS.—In carrying out this section, the Secretary shall ensure that the evaluation of permits carried out using funds accepted under this section shall—

(A) be reviewed by the Regional Director of the Bureau, or the Regional Director's designee, of the region in which the qualifying project or activity is located; and

(B) use the same procedures for decisions that would otherwise be required for the evaluation of permits for similar projects or activities not carried out using funds authorized under this section.

(3) IMPARTIAL DECISIONMAKING.—In carrying out this section, the Secretary and the cooperating agencies receiving funds under this section for qualifying projects shall ensure that the use of the funds accepted under this section for such projects shall not—

(A) impact impartial decisionmaking with respect to the issuance of permits, either substantively or procedurally; or

(B) diminish, modify, or otherwise affect the statutory or regulatory authorities of such agencies.

(c) **LIMITATION ON USE OF FUNDS.**—None of the funds accepted under this section shall be used to carry out a review of the evaluation of permits required under subsection (b)(2)(A).

(d) **PUBLIC AVAILABILITY.**—The Secretary shall ensure that all final permit decisions carried out using funds authorized under this section are made available to the public, including on the Internet.

TITLE VIII—BUREAU OF RECLAMATION PROJECT STREAMLINING

SEC. 801. SHORT TITLE.

This title may be cited as the “Bureau of Reclamation Project Streamlining Act”.

SEC. 802. DEFINITIONS.

In this title:

(1) **ENVIRONMENTAL IMPACT STATEMENT.**—The term “environmental impact statement” means the detailed statement of environmental impacts of a project required to be prepared pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(2) **ENVIRONMENTAL REVIEW PROCESS.**—

(A) **IN GENERAL.**—The term “environmental review process” means the process of preparing an environmental impact statement, environmental assessment, categorical exclusion, or other document under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) for a project study.

(B) **INCLUSIONS.**—The term “environmental review process” includes the process for and completion of any environmental permit, approval, review, or study required for a project study under any Federal law other than the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(3) **FEDERAL JURISDICTIONAL AGENCY.**—The term “Federal jurisdictional agency” means a Federal agency with jurisdiction delegated by law, regulation, order, or otherwise over a review, analysis, opinion, statement, permit, license, or other approval or decision required for a project study under applicable Federal laws (including regulations).

(4) **FEDERAL LEAD AGENCY.**—The term “Federal lead agency” means the Bureau of Reclamation.

(5) **PROJECT.**—The term “project” means a surface water project, a project under the purview of title XVI of Public Law 102–575, or a rural water supply project investigated under Public Law 109–451 to be carried out, funded or operated in whole or in part by the Secretary pursuant to the Act of June 17, 1902 (32 Stat. 388, chapter 1093), and Acts supplemental to and amendatory of that Act (43 U.S.C. 371 et seq.).

(6) **PROJECT SPONSOR.**—The term “project sponsor” means a State, regional, or local authority or instrumentality or other qualifying entity, such as a water conservation district, irrigation district, water conservancy district, joint powers authority, mutual water company, canal company, rural water district or association, or any other entity that has the capacity to contract with the United States under Federal reclamation law.

(7) **PROJECT STUDY.**—The term “project study” means a feasibility study for a project carried out pursuant to the Act of June 17, 1902 (32 Stat. 388, chapter 1093), and Acts supplemental to and amendatory of that Act (43 U.S.C. 371 et seq.).

(8) **SECRETARY.**—The term “Secretary” means the Secretary of the Interior.

(9) **SURFACE WATER STORAGE.**—The term “surface water storage” means any surface water reservoir or impoundment that would be owned, funded or operated in whole or in part by the Bureau of Reclamation or that would be integrated into a larger system owned, operated or administered in whole or in part by the Bureau of Reclamation.

SEC. 803. ACCELERATION OF STUDIES.

(a) **IN GENERAL.**—To the extent practicable, a project study initiated by the Secretary, after the date of enactment of this Act, under the Reclamation Act of 1902 (32 Stat. 388), and all Acts amendatory thereof or supplementary thereto, shall—

- (1) result in the completion of a final feasibility report not later than 3 years after the date of initiation;
 - (2) have a maximum Federal cost of \$3,000,000; and
 - (3) ensure that personnel from the local project area, region, and headquarters levels of the Bureau of Reclamation concurrently conduct the review required under this section.
- (b) EXTENSION.—If the Secretary determines that a project study described in subsection (a) will not be conducted in accordance with subsection (a), the Secretary, not later than 30 days after the date of making the determination, shall—
- (1) prepare an updated project study schedule and cost estimate;
 - (2) notify the non-Federal project cost-sharing partner that the project study has been delayed; and
 - (3) provide written notice to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate as to the reasons the requirements of subsection (a) are not attainable.
- (c) EXCEPTION.—
- (1) IN GENERAL.—Notwithstanding the requirements of subsection (a), the Secretary may extend the timeline of a project study by a period not to exceed 3 years, if the Secretary determines that the project study is too complex to comply with the requirements of subsection (a).
 - (2) FACTORS.—In making a determination that a study is too complex to comply with the requirements of subsection (a), the Secretary shall consider—
 - (A) the type, size, location, scope, and overall cost of the project;
 - (B) whether the project will use any innovative design or construction techniques;
 - (C) whether the project will require significant action by other Federal, State, or local agencies;
 - (D) whether there is significant public dispute as to the nature or effects of the project; and
 - (E) whether there is significant public dispute as to the economic or environmental costs or benefits of the project.
 - (3) NOTIFICATION.—Each time the Secretary makes a determination under this subsection, the Secretary shall provide written notice to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate as to the results of that determination, including an identification of the specific one or more factors used in making the determination that the project is complex.
 - (4) LIMITATION.—The Secretary shall not extend the timeline for a project study for a period of more than 7 years, and any project study that is not completed before that date shall no longer be authorized.
- (d) REVIEWS.—Not later than 90 days after the date of the initiation of a project study described in subsection (a), the Secretary shall—
- (1) take all steps necessary to initiate the process for completing federally mandated reviews that the Secretary is required to complete as part of the study, including the environmental review process under section 805;
 - (2) convene a meeting of all Federal, tribal, and State agencies identified under section 805(d) that may—
 - (A) have jurisdiction over the project;
 - (B) be required by law to conduct or issue a review, analysis, opinion, or statement for the project study; or
 - (C) be required to make a determination on issuing a permit, license, or other approval or decision for the project study; and
 - (3) take all steps necessary to provide information that will enable required reviews and analyses related to the project to be conducted by other agencies in a thorough and timely manner.
- (e) INTERIM REPORT.—Not later than 18 months after the date of enactment of this Act, the Secretary shall submit to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate and make publicly available a report that describes—
- (1) the status of the implementation of the planning process under this section, including the number of participating projects;
 - (2) a review of project delivery schedules, including a description of any delays on those studies initiated prior to the date of the enactment of this Act; and

- (3) any recommendations for additional authority necessary to support efforts to expedite the project.
- (f) FINAL REPORT.—Not later than 4 years after the date of enactment of this Act, the Secretary shall submit to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate and make publicly available a report that describes—
- (1) the status of the implementation of this section, including a description of each project study subject to the requirements of this section;
 - (2) the amount of time taken to complete each project study; and
 - (3) any recommendations for additional authority necessary to support efforts to expedite the project study process, including an analysis of whether the limitation established by subsection (a)(2) needs to be adjusted to address the impacts of inflation.

SEC. 804. EXPEDITED COMPLETION OF REPORTS.

The Secretary shall—

- (1) expedite the completion of any ongoing project study initiated before the date of enactment of this Act; and
- (2) if the Secretary determines that the project is justified in a completed report, proceed directly to preconstruction planning, engineering, and design of the project in accordance with the Reclamation Act of 1902 (32 Stat. 388), and all Acts amendatory thereof or supplementary thereto.

SEC. 805. PROJECT ACCELERATION.

(a) APPLICABILITY.—

(1) IN GENERAL.—This section shall apply to—

- (A) each project study that is initiated after the date of enactment of this Act and for which an environmental impact statement is prepared under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);
- (B) the extent determined appropriate by the Secretary, to other project studies initiated before the date of enactment of this Act and for which an environmental review process document is prepared under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and
- (C) any project study for the development of a non-federally owned and operated surface water storage project for which the Secretary determines there is a demonstrable Federal interest and the project—
 - (i) is located in a river basin where other Bureau of Reclamation water projects are located;
 - (ii) will create additional water supplies that support Bureau of Reclamation water projects; or
 - (iii) will become integrated into the operation of Bureau of Reclamation water projects.

(2) FLEXIBILITY.—Any authority granted under this section may be exercised, and any requirement established under this section may be satisfied, for the conduct of an environmental review process for a project study, a class of project studies, or a program of project studies.

(3) LIST OF PROJECT STUDIES.—

- (A) IN GENERAL.—The Secretary shall annually prepare, and make publicly available, a list of all project studies that the Secretary has determined—
 - (i) meets the standards described in paragraph (1); and
 - (ii) does not have adequate funding to make substantial progress toward the completion of the project study.
- (B) INCLUSIONS.—The Secretary shall include for each project study on the list under subparagraph (A) a description of the estimated amounts necessary to make substantial progress on the project study.

(b) PROJECT REVIEW PROCESS.—

- (1) IN GENERAL.—The Secretary shall develop and implement a coordinated environmental review process for the development of project studies.
- (2) COORDINATED REVIEW.—The coordinated environmental review process described in paragraph (1) shall require that any review, analysis, opinion, statement, permit, license, or other approval or decision issued or made by a Federal, State, or local governmental agency or an Indian tribe for a project study described in subsection (b) be conducted, to the maximum extent practicable, concurrently with any other applicable governmental agency or Indian tribe.
- (3) TIMING.—The coordinated environmental review process under this subsection shall be completed not later than the date on which the Secretary, in

consultation and concurrence with the agencies identified under section 805(d), establishes with respect to the project study.

(c) LEAD AGENCIES.—

(1) JOINT LEAD AGENCIES.—

(A) IN GENERAL.—Subject to the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and the requirements of section 1506.8 of title 40, Code of Federal Regulations (or successor regulations), including the concurrence of the proposed joint lead agency, a project sponsor may serve as the joint lead agency.

(B) PROJECT SPONSOR AS JOINT LEAD AGENCY.—A project sponsor that is a State or local governmental entity may—

(i) with the concurrence of the Secretary, serve as a joint lead agency with the Federal lead agency for purposes of preparing any environmental document under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

(ii) prepare any environmental review process document under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) required in support of any action or approval by the Secretary if—

(I) the Secretary provides guidance in the preparation process and independently evaluates that document;

(II) the project sponsor complies with all requirements applicable to the Secretary under—

(aa) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

(bb) any regulation implementing that Act; and

(cc) any other applicable Federal law; and

(III) the Secretary approves and adopts the document before the Secretary takes any subsequent action or makes any approval based on that document, regardless of whether the action or approval of the Secretary results in Federal funding.

(2) DUTIES.—The Secretary shall ensure that—

(A) the project sponsor complies with all design and mitigation commitments made jointly by the Secretary and the project sponsor in any environmental document prepared by the project sponsor in accordance with this subsection; and

(B) any environmental document prepared by the project sponsor is appropriately supplemented to address any changes to the project the Secretary determines are necessary.

(3) ADOPTION AND USE OF DOCUMENTS.—Any environmental document prepared in accordance with this subsection shall be adopted and used by any Federal agency making any determination related to the project study to the same extent that the Federal agency could adopt or use a document prepared by another Federal agency under—

(A) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

(B) parts 1500 through 1508 of title 40, Code of Federal Regulations (or successor regulations).

(4) ROLES AND RESPONSIBILITY OF LEAD AGENCY.—With respect to the environmental review process for any project study, the Federal lead agency shall have authority and responsibility—

(A) to take such actions as are necessary and proper and within the authority of the Federal lead agency to facilitate the expeditious resolution of the environmental review process for the project study; and

(B) to prepare or ensure that any required environmental impact statement or other environmental review document for a project study required to be completed under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) is completed in accordance with this section and applicable Federal law.

(d) PARTICIPATING AND COOPERATING AGENCIES.—

(1) IDENTIFICATION OF JURISDICTIONAL AGENCIES.—With respect to carrying out the environmental review process for a project study, the Secretary shall identify, as early as practicable in the environmental review process, all Federal, State, and local government agencies and Indian tribes that may—

(A) have jurisdiction over the project;

(B) be required by law to conduct or issue a review, analysis, opinion, or statement for the project study; or

- (C) be required to make a determination on issuing a permit, license, or other approval or decision for the project study.
- (2) STATE AUTHORITY.—If the environmental review process is being implemented by the Secretary for a project study within the boundaries of a State, the State, consistent with State law, may choose to participate in the process and to make subject to the process all State agencies that—
 - (A) have jurisdiction over the project;
 - (B) are required to conduct or issue a review, analysis, opinion, or statement for the project study; or
 - (C) are required to make a determination on issuing a permit, license, or other approval or decision for the project study.
- (3) INVITATION.—
 - (A) IN GENERAL.—The Federal lead agency shall invite, as early as practicable in the environmental review process, any agency identified under paragraph (1) to become a participating or cooperating agency, as applicable, in the environmental review process for the project study.
 - (B) DEADLINE.—An invitation to participate issued under subparagraph (A) shall set a deadline by which a response to the invitation shall be submitted, which may be extended by the Federal lead agency for good cause.
- (4) PROCEDURES.—Section 1501.6 of title 40, Code of Federal Regulations (as in effect on the date of enactment of the Bureau of Reclamation Project Streamlining Act) shall govern the identification and the participation of a cooperating agency.
- (5) FEDERAL COOPERATING AGENCIES.—Any Federal agency that is invited by the Federal lead agency to participate in the environmental review process for a project study shall be designated as a cooperating agency by the Federal lead agency unless the invited agency informs the Federal lead agency, in writing, by the deadline specified in the invitation that the invited agency—
 - (A)(i) has no jurisdiction or authority with respect to the project;
 - (ii) has no expertise or information relevant to the project; or
 - (iii) does not have adequate funds to participate in the project; and
 - (B) does not intend to submit comments on the project.
- (6) ADMINISTRATION.—A participating or cooperating agency shall comply with this section and any schedule established under this section.
- (7) EFFECT OF DESIGNATION.—Designation as a participating or cooperating agency under this subsection shall not imply that the participating or cooperating agency—
 - (A) supports a proposed project; or
 - (B) has any jurisdiction over, or special expertise with respect to evaluation of, the project.
- (8) CONCURRENT REVIEWS.—Each participating or cooperating agency shall—
 - (A) carry out the obligations of that agency under other applicable law concurrently and in conjunction with the required environmental review process, unless doing so would prevent the participating or cooperating agency from conducting needed analysis or otherwise carrying out those obligations; and
 - (B) formulate and implement administrative, policy, and procedural mechanisms to enable the agency to ensure completion of the environmental review process in a timely, coordinated, and environmentally responsible manner.
- (e) NON-FEDERAL PROJECTS INTEGRATED INTO RECLAMATION SYSTEMS.—The Federal lead agency shall serve in that capacity for the entirety of all non-Federal projects that will be integrated into a larger system owned, operated or administered in whole or in part by the Bureau of Reclamation.
- (f) NON-FEDERAL PROJECT.—If the Secretary determines that a project can be expedited by a non-Federal sponsor and that there is a demonstrable Federal interest in expediting that project, the Secretary shall take such actions as are necessary to advance such a project as a non-Federal project, including, but not limited to, entering into agreements with the non-Federal sponsor of such project to support the planning, design and permitting of such project as a non-Federal project.
- (g) PROGRAMMATIC COMPLIANCE.—
 - (1) IN GENERAL.—The Secretary shall issue guidance regarding the use of programmatic approaches to carry out the environmental review process that—
 - (A) eliminates repetitive discussions of the same issues;
 - (B) focuses on the actual issues ripe for analyses at each level of review;

- (C) establishes a formal process for coordinating with participating and cooperating agencies, including the creation of a list of all data that are needed to carry out an environmental review process; and
- (D) complies with—
 - (i) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and
 - (ii) all other applicable laws.
- (2) REQUIREMENTS.—In carrying out paragraph (1), the Secretary shall—
 - (A) as the first step in drafting guidance under that paragraph, consult with relevant Federal, State, and local governmental agencies, Indian tribes, and the public on the appropriate use and scope of the programmatic approaches;
 - (B) emphasize the importance of collaboration among relevant Federal, State, and local governmental agencies, and Indian tribes in undertaking programmatic reviews, especially with respect to including reviews with a broad geographical scope;
 - (C) ensure that the programmatic reviews—
 - (i) promote transparency, including of the analyses and data used in the environmental review process, the treatment of any deferred issues raised by Federal, State, and local governmental agencies, Indian tribes, or the public, and the temporal and special scales to be used to analyze those issues;
 - (ii) use accurate and timely information in the environmental review process, including—
 - (I) criteria for determining the general duration of the usefulness of the review; and
 - (II) the timeline for updating any out-of-date review;
 - (iii) describe—
 - (I) the relationship between programmatic analysis and future tiered analysis; and
 - (II) the role of the public in the creation of future tiered analysis; and
 - (iv) are available to other relevant Federal, State, and local governmental agencies, Indian tribes, and the public;
 - (D) allow not fewer than 60 days of public notice and comment on any proposed guidance; and
 - (E) address any comments received under subparagraph (D).
- (h) COORDINATED REVIEWS.—
 - (1) COORDINATION PLAN.—
 - (A) ESTABLISHMENT.—The Federal lead agency shall, after consultation with and with the concurrence of each participating and cooperating agency and the project sponsor or joint lead agency, as applicable, establish a plan for coordinating public and agency participation in, and comment on, the environmental review process for a project study or a category of project studies.
 - (B) SCHEDULE.—
 - (i) IN GENERAL.—As soon as practicable but not later than 45 days after the close of the public comment period on a draft environmental impact statement, the Federal lead agency, after consultation with and the concurrence of each participating and cooperating agency and the project sponsor or joint lead agency, as applicable, shall establish, as part of the coordination plan established in subparagraph (A), a schedule for completion of the environmental review process for the project study.
 - (ii) FACTORS FOR CONSIDERATION.—In establishing a schedule, the Secretary shall consider factors such as—
 - (I) the responsibilities of participating and cooperating agencies under applicable laws;
 - (II) the resources available to the project sponsor, joint lead agency, and other relevant Federal and State agencies, as applicable;
 - (III) the overall size and complexity of the project;
 - (IV) the overall schedule for and cost of the project; and
 - (V) the sensitivity of the natural and historical resources that could be affected by the project.
 - (iii) MODIFICATIONS.—The Secretary may—

- (I) lengthen a schedule established under clause (i) for good cause; and
 - (II) shorten a schedule only with concurrence of the affected participating and cooperating agencies and the project sponsor or joint lead agency, as applicable.
- (iv) DISSEMINATION.—A copy of a schedule established under clause (i) shall be—
 - (I) provided to each participating and cooperating agency and the project sponsor or joint lead agency, as applicable; and
 - (II) made available to the public.
- (2) COMMENT DEADLINES.—The Federal lead agency shall establish the following deadlines for comment during the environmental review process for a project study:
 - (A) DRAFT ENVIRONMENTAL IMPACT STATEMENTS.—For comments by Federal and State agencies and the public on a draft environmental impact statement, a period of not more than 60 days after publication in the Federal Register of notice of the date of public availability of the draft environmental impact statement, unless—
 - (i) a different deadline is established by agreement of the Federal lead agency, the project sponsor or joint lead agency, as applicable, and all participating and cooperating agencies; or
 - (ii) the deadline is extended by the Federal lead agency for good cause.
 - (B) OTHER ENVIRONMENTAL REVIEW PROCESSES.—For all other comment periods established by the Federal lead agency for agency or public comments in the environmental review process, a period of not more than 30 days after the date on which the materials on which comment is requested are made available, unless—
 - (i) a different deadline is established by agreement of the Federal lead agency, the project sponsor, or joint lead agency, as applicable, and all participating and cooperating agencies; or
 - (ii) the deadline is extended by the Federal lead agency for good cause.
- (3) DEADLINES FOR DECISIONS UNDER OTHER LAWS.—In any case in which a decision under any Federal law relating to a project study, including the issuance or denial of a permit or license, is required to be made by the date described in subsection (i)(5)(B), the Secretary shall submit to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate—
 - (A) as soon as practicable after the 180-day period described in subsection (i)(5)(B), an initial notice of the failure of the Federal agency to make the decision; and
 - (B) every 60 days thereafter until such date as all decisions of the Federal agency relating to the project study have been made by the Federal agency, an additional notice that describes the number of decisions of the Federal agency that remain outstanding as of the date of the additional notice.
- (4) INVOLVEMENT OF THE PUBLIC.—Nothing in this subsection reduces any time period provided for public comment in the environmental review process under applicable Federal law (including regulations).
- (5) TRANSPARENCY REPORTING.—
 - (A) REPORTING REQUIREMENTS.—Not later than 1 year after the date of enactment of this Act, the Secretary shall establish and maintain an electronic database and, in coordination with other Federal and State agencies, issue reporting requirements to make publicly available the status and progress with respect to compliance with applicable requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and any other Federal, State, or local approval or action required for a project study for which this section is applicable.
 - (B) PROJECT STUDY TRANSPARENCY.—Consistent with the requirements established under subparagraph (A), the Secretary shall make publicly available the status and progress of any Federal, State, or local decision, action, or approval required under applicable laws for each project study for which this section is applicable.
- (i) ISSUE IDENTIFICATION AND RESOLUTION.—

(1) COOPERATION.—The Federal lead agency, the cooperating agencies, and any participating agencies shall work cooperatively in accordance with this section to identify and resolve issues that could delay completion of the environmental review process or result in the denial of any approval required for the project study under applicable laws.

(2) FEDERAL LEAD AGENCY RESPONSIBILITIES.—

(A) IN GENERAL.—The Federal lead agency shall make information available to the cooperating agencies and participating agencies as early as practicable in the environmental review process regarding the environmental and socioeconomic resources located within the project area and the general locations of the alternatives under consideration.

(B) DATA SOURCES.—The information under subparagraph (A) may be based on existing data sources, including geographic information systems mapping.

(3) COOPERATING AND PARTICIPATING AGENCY RESPONSIBILITIES.—Based on information received from the Federal lead agency, cooperating and participating agencies shall identify, as early as practicable, any issues of concern regarding the potential environmental or socioeconomic impacts of the project, including any issues that could substantially delay or prevent an agency from granting a permit or other approval that is needed for the project study.

(4) ACCELERATED ISSUE RESOLUTION AND ELEVATION.—

(A) IN GENERAL.—On the request of a participating or cooperating agency or project sponsor, the Secretary shall convene an issue resolution meeting with the relevant participating and cooperating agencies and the project sponsor or joint lead agency, as applicable, to resolve issues that may—

- (i) delay completion of the environmental review process; or
- (ii) result in denial of any approval required for the project study under applicable laws.

(B) MEETING DATE.—A meeting requested under this paragraph shall be held not later than 21 days after the date on which the Secretary receives the request for the meeting, unless the Secretary determines that there is good cause to extend that deadline.

(C) NOTIFICATION.—On receipt of a request for a meeting under this paragraph, the Secretary shall notify all relevant participating and cooperating agencies of the request, including the issue to be resolved and the date for the meeting.

(D) ELEVATION OF ISSUE RESOLUTION.—If a resolution cannot be achieved within the 30-day period beginning on the date of a meeting under this paragraph and a determination is made by the Secretary that all information necessary to resolve the issue has been obtained, the Secretary shall forward the dispute to the heads of the relevant agencies for resolution.

(E) CONVENTION BY SECRETARY.—The Secretary may convene an issue resolution meeting under this paragraph at any time, at the discretion of the Secretary, regardless of whether a meeting is requested under subparagraph (A).

(5) FINANCIAL PENALTY PROVISIONS.—

(A) IN GENERAL.—A Federal jurisdictional agency shall complete any required approval or decision for the environmental review process on an expeditious basis using the shortest existing applicable process.

(B) FAILURE TO DECIDE.—

(i) IN GENERAL.—

(I) TRANSFER OF FUNDS.—If a Federal jurisdictional agency fails to render a decision required under any Federal law relating to a project study that requires the preparation of an environmental impact statement or environmental assessment, including the issuance or denial of a permit, license, statement, opinion, or other approval by the date described in clause (ii), the amount of funds made available to support the office of the head of the Federal jurisdictional agency shall be reduced by an amount of funding equal to the amount specified in item (aa) or (bb) of subclause (II), and those funds shall be made available to the division of the Federal jurisdictional agency charged with rendering the decision by not later than 1 day after the applicable date under clause (ii), and once each week thereafter until a final decision is rendered, subject to subparagraph (C).

- (II) AMOUNT TO BE TRANSFERRED.—The amount referred to in subclause (I) is—
- (aa) \$20,000 for any project study requiring the preparation of an environmental assessment or environmental impact statement; or
 - (bb) \$10,000 for any project study requiring any type of review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) other than an environmental assessment or environmental impact statement.
- (ii) DESCRIPTION OF DATE.—The date referred to in clause (i) is the later of—
- (I) the date that is 180 days after the date on which an application for the permit, license, or approval is complete; and
 - (II) the date that is 180 days after the date on which the Federal lead agency issues a decision on the project under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).
- (C) LIMITATIONS.—
- (i) IN GENERAL.—No transfer of funds under subparagraph (B) relating to an individual project study shall exceed, in any fiscal year, an amount equal to 1 percent of the funds made available for the applicable agency office.
 - (ii) FAILURE TO DECIDE.—The total amount transferred in a fiscal year as a result of a failure by an agency to make a decision by an applicable deadline shall not exceed an amount equal to 5 percent of the funds made available for the applicable agency office for that fiscal year.
 - (iii) AGGREGATE.—Notwithstanding any other provision of law, for each fiscal year, the aggregate amount of financial penalties assessed against each applicable agency office under this Act and any other Federal law as a result of a failure of the agency to make a decision by an applicable deadline for environmental review, including the total amount transferred under this paragraph, shall not exceed an amount equal to 9.5 percent of the funds made available for the agency office for that fiscal year.
- (D) NOTIFICATION OF TRANSFERS.—Not later than 10 days after the last date in a fiscal year on which funds of the Federal jurisdictional agency may be transferred under subparagraph (B)(5) with respect to an individual decision, the agency shall submit to the appropriate committees of the House of Representatives and the Senate written notification that includes a description of—
- (i) the decision;
 - (ii) the project study involved;
 - (iii) the amount of each transfer under subparagraph (B) in that fiscal year relating to the decision;
 - (iv) the total amount of all transfers under subparagraph (B) in that fiscal year relating to the decision; and
 - (v) the total amount of all transfers of the agency under subparagraph (B) in that fiscal year.
- (E) NO FAULT OF AGENCY.—
- (i) IN GENERAL.—A transfer of funds under this paragraph shall not be made if the applicable agency described in subparagraph (A) notifies, with a supporting explanation, the Federal lead agency, cooperating agencies, and project sponsor, as applicable, that—
 - (I) the agency has not received necessary information or approvals from another entity in a manner that affects the ability of the agency to meet any requirements under Federal, State, or local law;
 - (II) significant new information, including from public comments, or circumstances, including a major modification to an aspect of the project, requires additional analysis for the agency to make a decision on the project application; or
 - (III) the agency lacks the financial resources to complete the review under the scheduled timeframe, including a description of the number of full-time employees required to complete the review, the amount of funding required to complete the review, and a justification

tion as to why not enough funding is available to complete the review by the deadline.

(ii) LACK OF FINANCIAL RESOURCES.—If the agency provides notice under clause (i)(III), the Inspector General of the agency shall—

(I) conduct a financial audit to review the notice; and

(II) not later than 90 days after the date on which the review described in subclause (I) is completed, submit to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate the results of the audit conducted under subclause (I).

(F) LIMITATION.—The Federal agency from which funds are transferred pursuant to this paragraph shall not reprogram funds to the office of the head of the agency, or equivalent office, to reimburse that office for the loss of the funds.

(G) EFFECT OF PARAGRAPH.—Nothing in this paragraph affects or limits the application of, or obligation to comply with, any Federal, State, local, or tribal law.

(j) MEMORANDUM OF AGREEMENTS FOR EARLY COORDINATION.—

(1) SENSE OF CONGRESS.—It is the sense of Congress that—

(A) the Secretary and other Federal agencies with relevant jurisdiction in the environmental review process should cooperate with each other, State and local agencies, and Indian tribes on environmental review and Bureau of Reclamation project delivery activities at the earliest practicable time to avoid delays and duplication of effort later in the process, prevent potential conflicts, and ensure that planning and project development decisions reflect environmental values; and

(B) the cooperation referred to in subparagraph (A) should include the development of policies and the designation of staff that advise planning agencies and project sponsors of studies or other information foreseeably required for later Federal action and early consultation with appropriate State and local agencies and Indian tribes.

(2) TECHNICAL ASSISTANCE.—If requested at any time by a State or project sponsor, the Secretary and other Federal agencies with relevant jurisdiction in the environmental review process, shall, to the maximum extent practicable and appropriate, as determined by the agencies, provide technical assistance to the State or project sponsor in carrying out early coordination activities.

(3) MEMORANDUM OF AGENCY AGREEMENT.—If requested at any time by a State or project sponsor, the Federal lead agency, in consultation with other Federal agencies with relevant jurisdiction in the environmental review process, may establish memoranda of agreement with the project sponsor, Indian tribes, State and local governments, and other appropriate entities to carry out the early coordination activities, including providing technical assistance in identifying potential impacts and mitigation issues in an integrated fashion.

(k) LIMITATIONS.—Nothing in this section preempts or interferes with—

(1) any obligation to comply with the provisions of any Federal law, including—

(A) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

(B) any other Federal environmental law;

(2) the reviewability of any final Federal agency action in a court of the United States or in the court of any State;

(3) any requirement for seeking, considering, or responding to public comment; or

(4) any power, jurisdiction, responsibility, duty, or authority that a Federal, State, or local governmental agency, Indian tribe, or project sponsor has with respect to carrying out a project or any other provision of law applicable to projects.

(l) TIMING OF CLAIMS.—

(1) TIMING.—

(A) IN GENERAL.—Notwithstanding any other provision of law, a claim arising under Federal law seeking judicial review of a permit, license, or other approval issued by a Federal agency for a project study shall be barred unless the claim is filed not later than 3 years after publication of a notice in the Federal Register announcing that the permit, license, or other approval is final pursuant to the law under which the agency action

is taken, unless a shorter time is specified in the Federal law that allows judicial review.

(B) **APPLICABILITY.**—Nothing in this subsection creates a right to judicial review or places any limit on filing a claim that a person has violated the terms of a permit, license, or other approval.

(2) **NEW INFORMATION.**—

(A) **IN GENERAL.**—The Secretary shall consider new information received after the close of a comment period if the information satisfies the requirements for a supplemental environmental impact statement under title 40, Code of Federal Regulations (including successor regulations).

(B) **SEPARATE ACTION.**—The preparation of a supplemental environmental impact statement or other environmental document, if required under this section, shall be considered a separate final agency action and the deadline for filing a claim for judicial review of the action shall be 3 years after the date of publication of a notice in the Federal Register announcing the action relating to such supplemental environmental impact statement or other environmental document.

(m) **CATEGORICAL EXCLUSIONS.**—

(1) **IN GENERAL.**—Not later than 180 days after the date of enactment of this Act, the Secretary shall—

(A) survey the use by the Bureau of Reclamation of categorical exclusions in projects since 2005;

(B) publish a review of the survey that includes a description of—

(i) the types of actions that were categorically excluded or could be the basis for developing a new categorical exclusion; and

(ii) any requests previously received by the Secretary for new categorical exclusions; and

(C) solicit requests from other Federal agencies and project sponsors for new categorical exclusions.

(2) **NEW CATEGORICAL EXCLUSIONS.**—Not later than 1 year after the date of enactment of this Act, if the Secretary has identified a category of activities that merit establishing a categorical exclusion that did not exist on the day before the date of enactment of this Act based on the review under paragraph (1), the Secretary shall publish a notice of proposed rulemaking to propose that new categorical exclusion, to the extent that the categorical exclusion meets the criteria for a categorical exclusion under section 1508.4 of title 40, Code of Federal Regulations (or successor regulation).

(n) **REVIEW OF PROJECT ACCELERATION REFORMS.**—

(1) **IN GENERAL.**—The Comptroller General of the United States shall—

(A) assess the reforms carried out under this section; and

(B) not later than 5 years and not later than 10 years after the date of enactment of this Act, submit to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report that describes the results of the assessment.

(2) **CONTENTS.**—The reports under paragraph (1) shall include an evaluation of impacts of the reforms carried out under this section on—

(A) project delivery;

(B) compliance with environmental laws; and

(C) the environmental impact of projects.

(o) **PERFORMANCE MEASUREMENT.**—The Secretary shall establish a program to measure and report on progress made toward improving and expediting the planning and environmental review process.

(p) **CATEGORICAL EXCLUSIONS IN EMERGENCIES.**—For the repair, reconstruction, or rehabilitation of a Bureau of Reclamation surface water storage project that is in operation or under construction when damaged by an event or incident that results in a declaration by the President of a major disaster or emergency pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), the Secretary shall treat such repair, reconstruction, or rehabilitation activity as a class of action categorically excluded from the requirements relating to environmental assessments or environmental impact statements under section 1508.4 of title 40, Code of Federal Regulations (or successor regulations), if the repair or reconstruction activity is—

(1) in the same location with the same capacity, dimensions, and design as the original Bureau of Reclamation surface water storage project as before the declaration described in this section; and

(2) commenced within a 2-year period beginning on the date of a declaration described in this subsection.

SEC. 806. ANNUAL REPORT TO CONGRESS.

(a) **IN GENERAL.**—Not later than February 1 of each year, the Secretary shall develop and submit to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate an annual report, to be entitled “Report to Congress on Future Water Project Development”, that identifies the following:

(1) **PROJECT REPORTS.**—Each project report that meets the criteria established in subsection (c)(1)(A).

(2) **PROPOSED PROJECT STUDIES.**—Any proposed project study submitted to the Secretary by a non-Federal interest pursuant to subsection (b) that meets the criteria established in subsection (c)(1)(A).

(3) **PROPOSED MODIFICATIONS.**—Any proposed modification to an authorized water project or project study that meets the criteria established in subsection (c)(1)(A) that—

(A) is submitted to the Secretary by a non-Federal interest pursuant to subsection (b); or

(B) is identified by the Secretary for authorization.

(4) **EXPEDITED COMPLETION OF REPORT AND DETERMINATIONS.**—Any project study that was expedited and any Secretarial determinations under section 804.

(b) **REQUESTS FOR PROPOSALS.**—

(1) **PUBLICATION.**—Not later than May 1 of each year, the Secretary shall publish in the Federal Register a notice requesting proposals from non-Federal interests for proposed project studies and proposed modifications to authorized projects and project studies to be included in the annual report.

(2) **DEADLINE FOR REQUESTS.**—The Secretary shall include in each notice required by this subsection a requirement that non-Federal interests submit to the Secretary any proposals described in paragraph (1) by not later than 120 days after the date of publication of the notice in the Federal Register in order for the proposals to be considered for inclusion in the annual report.

(3) **NOTIFICATION.**—On the date of publication of each notice required by this subsection, the Secretary shall—

(A) make the notice publicly available, including on the Internet; and

(B) provide written notification of the publication to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

(c) **CONTENTS.**—

(1) **PROJECT REPORTS, PROPOSED PROJECT STUDIES, AND PROPOSED MODIFICATIONS.**—

(A) **CRITERIA FOR INCLUSION IN REPORT.**—The Secretary shall include in the annual report only those project reports, proposed project studies, and proposed modifications to authorized projects and project studies that—

(i) are related to the missions and authorities of the Bureau of Reclamation;

(ii) require specific congressional authorization, including by an Act of Congress;

(iii) have not been congressionally authorized;

(iv) have not been included in any previous annual report; and

(v) if authorized, could be carried out by the Bureau of Reclamation.

(B) **DESCRIPTION OF BENEFITS.**—

(i) **DESCRIPTION.**—The Secretary shall describe in the annual report, to the extent applicable and practicable, for each proposed project study and proposed modification to an authorized water resources development project or project study included in the annual report, the benefits, as described in clause (ii), of each such study or proposed modification.

(ii) **BENEFITS.**—The benefits (or expected benefits, in the case of a proposed project study) described in this clause are benefits to—

(I) the protection of human life and property;

(II) improvement to domestic irrigated water and power supplies;

(III) the national economy;

(IV) the environment; or

(V) the national security interests of the United States.

(C) IDENTIFICATION OF OTHER FACTORS.—The Secretary shall identify in the annual report, to the extent practicable—

(i) for each proposed project study included in the annual report, the non-Federal interest that submitted the proposed project study pursuant to subsection (b); and

(ii) for each proposed project study and proposed modification to a project or project study included in the annual report, whether the non-Federal interest has demonstrated—

(I) that local support exists for the proposed project study or proposed modification to an authorized project or project study (including the surface water storage development project that is the subject of the proposed feasibility study or the proposed modification to an authorized project study); and

(II) the financial ability to provide the required non-Federal cost share.

(2) TRANSPARENCY.—The Secretary shall include in the annual report, for each project report, proposed project study, and proposed modification to a project or project study included under paragraph (1)(A)—

(A) the name of the associated non-Federal interest, including the name of any non-Federal interest that has contributed, or is expected to contribute, a non-Federal share of the cost of—

(i) the project report;

(ii) the proposed project study;

(iii) the authorized project study for which the modification is proposed; or

(iv) construction of—

(I) the project that is the subject of—

(aa) the water report;

(bb) the proposed project study; or

(cc) the authorized project study for which a modification is proposed; or

(II) the proposed modification to a project;

(B) a letter or statement of support for the water report, proposed project study, or proposed modification to a project or project study from each associated non-Federal interest;

(C) the purpose of the feasibility report, proposed feasibility study, or proposed modification to a project or project study;

(D) an estimate, to the extent practicable, of the Federal, non-Federal, and total costs of—

(i) the proposed modification to an authorized project study; and

(ii) construction of—

(I) the project that is the subject of—

(aa) the project report; or

(bb) the authorized project study for which a modification is proposed, with respect to the change in costs resulting from such modification; or

(II) the proposed modification to an authorized project; and

(E) an estimate, to the extent practicable, of the monetary and nonmonetary benefits of—

(i) the project that is the subject of—

(I) the project report; or

(II) the authorized project study for which a modification is proposed, with respect to the benefits of such modification; or

(ii) the proposed modification to an authorized project.

(3) CERTIFICATION.—The Secretary shall include in the annual report a certification stating that each feasibility report, proposed feasibility study, and proposed modification to a project or project study included in the annual report meets the criteria established in paragraph (1)(A).

(4) APPENDIX.—The Secretary shall include in the annual report an appendix listing the proposals submitted under subsection (b) that were not included in the annual report under paragraph (1)(A) and a description of why the Secretary determined that those proposals did not meet the criteria for inclusion under such paragraph.

(d) SPECIAL RULE FOR INITIAL ANNUAL REPORT.—Notwithstanding any other deadlines required by this section, the Secretary shall—

(1) not later than 60 days after the date of enactment of this Act, publish in the Federal Register a notice required by subsection (b)(1); and

(2) include in such notice a requirement that non-Federal interests submit to the Secretary any proposals described in subsection (b)(1) by not later than 120 days after the date of publication of such notice in the Federal Register in order for such proposals to be considered for inclusion in the first annual report developed by the Secretary under this section.

(e) **PUBLICATION.**—Upon submission of an annual report to Congress, the Secretary shall make the annual report publicly available, including through publication on the Internet.

(f) **DEFINITION.**—In this section, the term “project report” means a final feasibility report developed under the Reclamation Act of 1902 (32 Stat. 388), and all Acts amendatory thereof or supplementary thereto.

TITLE IX—ACCELERATED REVENUE, REPAYMENT, AND SURFACE WATER STORAGE ENHANCEMENT

SEC. 901. SHORT TITLE.

This title may be cited as the “Accelerated Revenue, Repayment, and Surface Water Storage Enhancement Act”.

SEC. 902. PREPAYMENT OF CERTAIN REPAYMENT CONTRACTS BETWEEN THE UNITED STATES AND CONTRACTORS OF FEDERALLY DEVELOPED WATER SUPPLIES.

(a) CONVERSION AND PREPAYMENT OF CONTRACTS.—

(1) **CONVERSION.**—Upon request of the contractor, the Secretary of the Interior shall convert any water service contract in effect on the date of enactment of this Act and between the United States and a water users’ association to allow for prepayment of the repayment contract pursuant to paragraph (2) under mutually agreeable terms and conditions. The manner of conversion under this paragraph shall be as follows:

(A) Water service contracts that were entered into under section 9(e) of the Act of August 4, 1939 (53 Stat. 1196), to be converted under this section shall be converted to repayment contracts under section 9(d) of that Act (53 Stat. 1195).

(B) Water service contracts that were entered under subsection (c)(2) of section 9 of the Act of August 4, 1939 (53 Stat. 1194), to be converted under this section shall be converted to a contract under subsection (c)(1) of section 9 of that Act (53 Stat. 1195).

(2) **PREPAYMENT.**—All repayment contracts under section 9(d) of that Act (53 Stat. 1195) in effect on the date of enactment of this Act at the request of the contractor, and all contracts converted pursuant to paragraph (1)(A) shall—

(A) provide for the repayment, either in lump sum or by accelerated prepayment, of the remaining construction costs identified in water project specific irrigation rate repayment schedules, as adjusted to reflect payment not reflected in such schedule, and properly assignable for ultimate return by the contractor, or if made in approximately equal installments, no later than 3 years after the effective date of the repayment contract, such amount to be discounted by $\frac{1}{2}$ the Treasury rate. An estimate of the remaining construction costs, as adjusted, shall be provided by the Secretary to the contractor no later than 90 days following receipt of request of the contractor;

(B) require that construction costs or other capitalized costs incurred after the effective date of the contract or not reflected in the rate schedule referenced in subparagraph (A), and properly assignable to such contractor shall be repaid in not more than 5 years after notification of the allocation if such amount is a result of a collective annual allocation of capital costs to the contractors exercising contract conversion under this subsection of less than \$5,000,000. If such amount is \$5,000,000 or greater, such cost shall be repaid as provided by applicable reclamation law;

(C) provide that power revenues will not be available to aid in repayment of construction costs allocated to irrigation under the contract; and

(D) continue so long as the contractor pays applicable charges, consistent with section 9(d) of the Act of August 4, 1939 (53 Stat. 1195), and applicable law.

(3) **CONTRACT REQUIREMENTS.**—The following shall apply with regard to all repayment contracts under subsection (c)(1) of section 9 of that Act (53 Stat. 1195) in effect on the date of enactment of this Act at the request of the contractor, and all contracts converted pursuant to paragraph (1)(B):

(A) Provide for the repayment in lump sum of the remaining construction costs identified in water project specific municipal and industrial rate repayment schedules, as adjusted to reflect payments not reflected in such schedule, and properly assignable for ultimate return by the contractor. An estimate of the remaining construction costs, as adjusted, shall be provided by the Secretary to the contractor no later than 90 days after receipt of request of contractor.

(B) The contract shall require that construction costs or other capitalized costs incurred after the effective date of the contract or not reflected in the rate schedule referenced in subparagraph (A), and properly assignable to such contractor, shall be repaid in not more than 5 years after notification of the allocation if such amount is a result of a collective annual allocation of capital costs to the contractors exercising contract conversation under this subsection of less than \$5,000,000. If such amount is \$5,000,000 or greater, such cost shall be repaid as provided by applicable reclamation law.

(C) Continue so long as the contractor pays applicable charges, consistent with section 9(c)(1) of the Act of August 4, 1939 (53 Stat. 1195), and applicable law.

(4) **CONDITIONS.**—All contracts entered into pursuant to paragraphs (1), (2), and (3) shall—

(A) not be adjusted on the basis of the type of prepayment financing used by the water users' association;

(B) conform to any other agreements, such as applicable settlement agreements and new constructed appurtenant facilities; and

(C) not modify other water service, repayment, exchange and transfer contractual rights between the water users' association, and the Bureau of Reclamation, or any rights, obligations, or relationships of the water users' association and their landowners as provided under State law.

(b) **ACCOUNTING.**—The amounts paid pursuant to subsection (a) shall be subject to adjustment following a final cost allocation by the Secretary of the Interior. In the event that the final cost allocation indicates that the costs properly assignable to the contractor are greater than what has been paid by the contractor, the contractor shall be obligated to pay the remaining allocated costs. The term of such additional repayment contract shall be not less than one year and not more than 10 years, however, mutually agreeable provisions regarding the rate of repayment of such amount may be developed by the parties. In the event that the final cost allocation indicates that the costs properly assignable to the contractor are less than what the contractor has paid, the Secretary shall credit such overpayment as an offset against any outstanding or future obligation of the contractor.

(c) **APPLICABILITY OF CERTAIN PROVISIONS.**—

(1) **EFFECT OF EXISTING LAW.**—Upon a contractor's compliance with and discharge of the obligation of repayment of the construction costs pursuant to a contract entered into pursuant to subsection (a)(2)(A), subsections (a) and (b) of section 213 of the Reclamation Reform Act of 1982 (96 Stat. 1269) shall apply to affected lands.

(2) **EFFECT OF OTHER OBLIGATIONS.**—The obligation of a contractor to repay construction costs or other capitalized costs described in subsection (a)(2)(B), (a)(3)(B), or (b) shall not affect a contractor's status as having repaid all of the construction costs assignable to the contractor or the applicability of subsections (a) and (b) of section 213 of the Reclamation Reform Act of 1982 (96 Stat. 1269) once the amount required to be paid by the contractor under the repayment contract entered into pursuant to subsection (a)(2)(A) have been paid.

(d) **EFFECT ON EXISTING LAW NOT ALTERED.**—Implementation of the provisions of this title shall not alter—

(1) the repayment obligation of any water service or repayment contractor receiving water from the same water project, or shift any costs that would otherwise have been properly assignable to the water users' association identified in subsections (a)(1), (a)(2), and (a)(3) absent this section, including operation and

maintenance costs, construction costs, or other capitalized costs incurred after the date of the enactment of this Act, or to other contractors; and

(2) specific requirements for the disposition of amounts received as repayments by the Secretary under the Act of June 17, 1902 (32 Stat. 388, chapter 1093), and Acts supplemental to and amendatory of that Act (43 U.S.C. 371 et seq.).

(e) SURFACE WATER STORAGE ENHANCEMENT PROGRAM.—

(1) IN GENERAL.—Except as provided in subsection (d)(2), three years following the date of enactment of this Act, 50 percent of receipts generated from prepayment of contracts under this section beyond amounts necessary to cover the amount of receipts forgone from scheduled payments under current law for the 10-year period following the date of enactment of this Act shall be directed to the Reclamation Surface Water Storage Account under paragraph (2).

(2) SURFACE STORAGE ACCOUNT.—The Secretary shall allocate amounts collected under paragraph (1) into the “Reclamation Surface Storage Account” to fund the construction of surface water storage. The Secretary may also enter into cooperative agreements with water users’ associations for the construction of surface water storage and amounts within the Surface Storage Account may be used to fund such construction. Surface water storage projects that are otherwise not federally authorized shall not be considered Federal facilities as a result of any amounts allocated from the Surface Storage Account for part or all of such facilities.

(3) REPAYMENT.—Amounts used for surface water storage construction from the Account shall be fully reimbursed to the Account consistent with the requirements under Federal reclamation law (the law (the Act of June 17, 1902 (32 Stat. 388, chapter 1093))), and Acts supplemental to and amendatory of that Act (43 U.S.C. 371 et seq.) except that all funds reimbursed shall be deposited in the Account established under paragraph (2).

(4) AVAILABILITY OF AMOUNTS.—Amounts deposited in the Account under this subsection shall—

(A) be made available in accordance with this section, subject to appropriation; and

(B) be in addition to amounts appropriated for such purposes under any other provision of law.

(5) PURPOSES OF SURFACE WATER STORAGE.—Construction of surface water storage under this section shall be made for the following purposes:

(A) Increased municipal and industrial water supply.

(B) Agricultural floodwater, erosion, and sedimentation reduction.

(C) Agricultural drainage improvements.

(D) Agricultural irrigation.

(E) Increased recreation opportunities.

(F) Reduced adverse impacts to fish and wildlife from water storage or diversion projects within watersheds associated with water storage projects funded under this section.

(G) Any other purposes consistent with reclamation laws or other Federal law.

(f) DEFINITIONS.—For the purposes of this title, the following definitions apply:

(1) ACCOUNT.—The term “Account” means the Reclamation Surface Water Storage Account established under subsection (e)(2).

(2) CONSTRUCTION.—The term “construction” means the designing, materials engineering and testing, surveying, and building of surface water storage including additions to existing surface water storage and construction of new surface water storage facilities, exclusive of any Federal statutory or regulatory obligations relating to any permit, review, approval, or other such requirement.

(3) SURFACE WATER STORAGE.—The term “surface water storage” means any federally owned facility under the jurisdiction of the Bureau of Reclamation or any non-Federal facility used for the surface storage and supply of water resources.

(4) TREASURY RATE.—The term “Treasury rate” means the 20-year Constant Maturity Treasury (CMT) rate published by the United States Department of the Treasury existing on the effective date of the contract.

(5) WATER USERS’ ASSOCIATION.—The term “water users’ association” means—

(A) an entity organized and recognized under State laws that is eligible to enter into contracts with reclamation to receive contract water for delivery to and users of the water and to pay applicable charges; and

(B) includes a variety of entities with different names and differing functions, such as associations, conservatory district, irrigation district, municipality, and water project contract unit.

TITLE X—SAFETY OF DAMS

SEC. 1001. AUTHORIZATION OF ADDITIONAL PROJECT BENEFITS.

The Reclamation Safety of Dams Act of 1978 is amended—

- (1) in section 3, by striking “Construction” and inserting “Except as provided in section 5B, construction”; and
- (2) by inserting after section 5A (43 U.S.C. 509) the following:

“SEC. 5B. AUTHORIZATION OF ADDITIONAL PROJECT BENEFITS.

“Notwithstanding section 3, if the Secretary determines that additional project benefits, including but not limited to additional conservation storage capacity, are feasible and not inconsistent with the purposes of this Act, the Secretary is authorized to develop additional project benefits through the construction of new or supplementary works on a project in conjunction with the Secretary’s activities under section 2 of this Act and subject to the conditions described in the feasibility study, provided—

“(1) the Secretary determines that developing additional project benefits through the construction of new or supplementary works on a project will promote more efficient management of water and water-related facilities;

“(2) the feasibility study pertaining to additional project benefits has been authorized pursuant to section 8 of the Federal Water Project Recreation Act of 1965 (16 U.S.C. 4601–18); and

“(3) the costs associated with developing the additional project benefits are agreed to in writing between the Secretary and project proponents and shall be allocated to the authorized purposes of the structure and repaid consistent with all provisions of Federal Reclamation law (the Act of June 17, 1902, 43 U.S.C. 371 et seq.) and Acts supplemental to and amendatory of that Act.”.

TITLE XI—WATER RIGHTS PROTECTION

SEC. 1101. SHORT TITLE.

This title may be cited as the “Water Rights Protection Act”.

SEC. 1102. DEFINITION OF WATER RIGHT.

In this title, the term “water right” means any surface or groundwater right filed, permitted, certified, confirmed, decreed, adjudicated, or otherwise recognized by a judicial proceeding or by the State in which the user acquires possession of the water or puts the water to beneficial use, including water rights for federally recognized Indian tribes.

SEC. 1103. TREATMENT OF WATER RIGHTS.

The Secretary of the Interior and the Secretary of Agriculture shall not—

- (1) condition or withhold, in whole or in part, the issuance, renewal, amendment, or extension of any permit, approval, license, lease, allotment, easement, right-of-way, or other land use or occupancy agreement on—

(A) limitation or encumbrance of any water right, or the transfer of any water right (including joint and sole ownership), directly or indirectly to the United States or any other designee; or

(B) any other impairment of any water right, in whole or in part, granted or otherwise recognized under State law, by Federal or State adjudication, decree, or other judgment, or pursuant to any interstate water compact;

- (2) require any water user (including any federally recognized Indian tribe) to apply for or acquire a water right in the name of the United States under State law as a condition of the issuance, renewal, amendment, or extension of any permit, approval, license, lease, allotment, easement, right-of-way, or other land use or occupancy agreement;

- (3) assert jurisdiction over groundwater withdrawals or impacts on groundwater resources, unless jurisdiction is asserted, and any regulatory or policy actions taken pursuant to such assertion are, consistent with, and impose no greater restrictions or regulatory requirements than, applicable State laws (in-

cluding regulations) and policies governing the protection and use of groundwater resources; or

(4) infringe on the rights and obligations of a State in evaluating, allocating, and adjudicating the waters of the State originating on or under, or flowing from, land owned or managed by the Federal Government.

SEC. 1104. RECOGNITION OF STATE AUTHORITY.

(a) **IN GENERAL.**—In carrying out section 1103, the Secretary of the Interior and the Secretary of Agriculture shall—

(1) recognize the longstanding authority of the States relating to evaluating, protecting, allocating, regulating, and adjudicating groundwater by any means, including a rulemaking, permitting, directive, water court adjudication, resource management planning, regional authority, or other policy; and

(2) coordinate with the States in the adoption and implementation by the Secretary of the Interior or the Secretary of Agriculture of any rulemaking, policy, directive, management plan, or other similar Federal action so as to ensure that such actions are consistent with, and impose no greater restrictions or regulatory requirements than, State groundwater laws and programs.

(b) **EFFECT ON STATE WATER RIGHTS.**—In carrying out this title, the Secretary of the Interior and the Secretary of Agriculture shall not take any action that adversely affects—

(1) any water rights granted by a State;

(2) the authority of a State in adjudicating water rights;

(3) definitions established by a State with respect to the term “beneficial use”, “priority of water rights”, or “terms of use”;

(4) terms and conditions of groundwater withdrawal, guidance and reporting procedures, and conservation and source protection measures established by a State;

(5) the use of groundwater in accordance with State law; or

(6) any other rights and obligations of a State established under State law.

SEC. 1105. EFFECT OF TITLE.

(a) **EFFECT ON EXISTING AUTHORITY.**—Nothing in this title limits or expands any existing legally recognized authority of the Secretary of the Interior or the Secretary of Agriculture to issue, grant, or condition any permit, approval, license, lease, allotment, easement, right-of-way, or other land use or occupancy agreement on Federal land subject to the jurisdiction of the Secretary of the Interior or the Secretary of Agriculture, respectively.

(b) **EFFECT ON RECLAMATION CONTRACTS.**—Nothing in this title interferes with Bureau of Reclamation contracts entered into pursuant to the reclamation laws.

(c) **EFFECT ON ENDANGERED SPECIES ACT.**—Nothing in this title affects the implementation of the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

(d) **EFFECT ON FEDERAL RESERVED WATER RIGHTS.**—Nothing in this title limits or expands any existing or claimed reserved water rights of the Federal Government on land administered by the Secretary of the Interior or the Secretary of Agriculture.

(e) **EFFECT ON FEDERAL POWER ACT.**—Nothing in this title limits or expands authorities under sections 4(e), 10(j), or 18 of the Federal Power Act (16 U.S.C. 797(e), 803(j), 811).

(f) **EFFECT ON INDIAN WATER RIGHTS.**—Nothing in this title limits or expands any water right or treaty right of any federally recognized Indian tribe.

PURPOSE OF THE BILL

The purpose of H.R. 2898 is to provide drought relief to the State of California and other Western states.

BACKGROUND AND NEED FOR LEGISLATION

H.R. 2898, the Western Water and American Food Security Act of 2015, represents a comprehensive approach aimed at alleviating drought impacts through short-term and long-term measures. The bill follows the framework created in bipartisan and bicameral negotiations in the last Congress and reflects ideas considered in 18 House Natural Resources Committee hearings and subsequent markups.

California Water Issues

Since becoming a state in 1850, California has experienced natural drought multiple times. These drought periods and the need to provide water to a rapidly growing population and farms led to an innovative and complex water storage and delivery system. Since northern California contains over two-thirds of the water resources and southern California has two-thirds of the human population, the federal government, through the Bureau of Reclamation (Reclamation), and the State of California (State) built the Central Valley Project (CVP) and the State Water Project (SWP), respectively, to convey water.

Water from the northernmost portions of the State is conveyed south through the Sacramento-San Joaquin River Delta (Delta), the essential element of California's water delivery system, through two massive federal and state pumping systems near Tracy, California. Water flowing through the Delta supplies 33 percent of the Bay Area's drinking water, up to 90 percent of the Central Valley's drinking and irrigation water, and 30 percent of southern California's drinking water. Beyond delivering water to two-thirds of California's population, and helping California get through periods of extended drought, the CVP and SWP have also helped to create a massive agricultural economy that supplies more than half of the country's vegetables and a vast majority of fruits and nuts worth more than \$46 billion annually.

The current California water storage and delivery system was designed to serve 22 million people. Currently, the State has over 38 million residents and the population is expected to double by 2050. While urban and rural communities have pursued water efficiency improvements and planting higher value permanent crops, many believe that conservation will not fully resolve water supply issues and that new water storage projects are necessary in key locations.

As California enters its fourth consecutive year of drought, this debate has only intensified. The current natural drought in California has been compounded by man-made actions related to federal and state biological opinions on Endangered Species Act (ESA)

protected Delta smelt and certain salmon species populations to the point where irrigation districts and cities and towns in southern California are experiencing their second consecutive year of receiving zero to five percent of their allocated water. Moreover, some communities in the San Joaquin Valley have run out of water altogether. Mendota, a community heavily dependent on irrigated agriculture and the jobs associated with it, is experiencing 34 percent unemployment. The community of East Porterville now relies on trucked-in water.

Federal and state water actions related to endangered species, water quality and other matters has reduced water availability for certain portions of California. The Delta smelt, a three-inch fish listed as threatened in March 1993 has been at the forefront of this debate. Under the 2008 Delta smelt biological opinion issued under the ESA, increased amounts of water were diverted from farms and cities in southern California and allowed to flow into the Pacific Ocean. Drought-related water cutbacks last year caused an estimated 400,000 acres in the State to be fallowed. According to Mr. Craig McNamara, President of the State Board of Food and Agriculture, acreage could top 600,000 acres and cost more than 20,000 jobs. The Fresno County Farm Bureau estimated the amount of fallowed ground could total closer to one million acres.

Given that federal policies play a significant role in water cutbacks, the House of Representatives passed California drought-related bills during the past two Congresses. This action included long-term measures, H.R. 1837 (112th Congress) and H.R. 3964 (113th Congress) and a shorter-term measure, H.R. 5781 (113th Congress). H.R. 2898 represents a different bipartisan approach than the previous legislative efforts by working within the framework of the current biological opinions on Delta smelt and salmon to foster scientific transparency and updated data collection to bring about operational flexibility while moving forward on new water storage in the State.

Title I of the bill ensures that changes to operational pumping levels are based on the best and most up-to-date science, while also requiring agencies to use the most accurate survey methods to help determine how these water projects may be maximized without causing significant impacts to the Delta smelt. Only three years of data were used to calculate the incidental take limit (ITL) of Delta smelt in the most recent biological opinion, and the data is up to a decade old (2006-2008). Section 102 of the bill requires federal agencies to modify the methodology used to calculate the ITLs for the Delta smelt using the best scientific and commercial data available to allow for a more accurate and robust ITL. Section 103 requires the agencies to use real-time data to make informed decisions about operational changes to the pumps and to maximize project operations pumping at a specified level provided there is no harm to Delta smelt. Although the text is not identical, Title I, and Titles II and III, reflect parts of the framework negotiated with the Senate last year.

Title II aims to ease water project pumping restrictions by identifying management actions other than reductions in pumping that can be utilized to better contribute to salmon recovery. Section 202 requires the federal agencies to evaluate and quantify the benefit to

salmon species from reductions in pumping. In addition, the Secretary of Commerce is required to consider alternative measures including barriers to fish entrainment, habitat enhancements and predation control programs. The evaluation of these alternative measures will allow the National Marine Fisheries Service (NMFS) to demonstrate the effectiveness of existing reasonable and prudent alternatives (RPAs) and identify potential additional actions to protect species while reducing adverse water impacts to CVP and SWP contractors. Section 203 authorizes a non-federally financed predator fish removal program on the Stanislaus River. This program is designed to remove nonnative striped bass, smallmouth bass, largemouth bass, black bass, and other nonnative predator fish species that prey on protected salmonid species.

Title III works within current law to provide federal agencies the operational flexibility to maximize Delta pumping levels while still satisfying the needs of ESA listed species. It also directs the federal agencies to maximize the amount of water pumped south of the Delta during drought and for two subsequent normal water years. Section 302 requires the Secretaries of Agriculture, Commerce and the Interior to expeditiously issue all necessary permits for water transfers and the use of temporary barriers or operable gates to improve the quantity and quality of water available to CVP and SWP water users. This section also creates a streamlined project elevation and decision-making process to ensure that decisions related to projects that provide additional water supplies or address emergency drought conditions are made expeditiously. Additional provisions require the Cross Channel gates in the Delta remain open for longer periods of time to prevent water from being lost to the Pacific Ocean. Section 306 requires federal agencies to increase regular project operations pumping at specific levels if there is no harm to protected species, and Section 307 authorizes pumping at specific levels to capture water during the first few storms of the year. Section 313 replaces and satisfies the requirements of the San Joaquin River Restoration Settlement with a much less expensive warm water fishery.

Title IV requires Reclamation to complete five feasibility studies for storage projects in California by certain timelines. These studies have been ongoing for over 12 years, prompting many to ask when they will be completed to bring about new long-term water supplies. Title V, as amended, includes provisions designed to preserve water rights seniority and to protect the joint operation of the CVP and SWP. Title VI allows artificially-spawned Delta smelt and Chinook salmon to be counted when counting fish populations and requires the federal government to develop and implement a plan to replace the 800,000 acre-feet of CVP water, as required by the CVPIA, within 180 days of enactment.

Western Water Supplies

Much of the western United States other than California faces drought as well. The West is currently home to more than 70 million people and is one of our country's most productive agricultural regions. Similar to California's history, the transformation of the West occurred primarily due to the multiple benefits of Reclamation's multi-purpose water projects. Today, Reclamation is the largest water wholesaler in the nation, providing water to 31 million people

and irrigating ten million acres of farmland that produce 60 percent of the nation's vegetables and 25 percent of its fruits and nuts, according to Reclamation.

Yet, despite the longstanding multi-purpose benefits of water storage, attempts to create new water projects have been stifled by an increasingly complex federal regulatory structure, economics and other matters. The last five titles of H.R. 2898 set forth a more predictable federal permitting process and updates federal laws to foster the construction of more water projects throughout the West.

The regulatory process of constructing new surface water storage -- whether federally or non-federally owned -- often involves a host of federal, state, and local permits and approvals from various agencies. Throughout this process, federal agencies are not required to coordinate their permits and approvals with one another. As a result, conflicting agency permit requirements add time to the project planning and implementation process and increases the potential for last-minute surprises that could endanger the success of a project or require significant additional work. As an example, it took 14 years to permit but just two years to build the 22,400 acre-foot High Savery Dam Project in Wyoming. A local rancher, Mr. Pat O' Toole, testified before the Natural Resources Committee on the permitting time, "The lead federal agency wasted a great deal of time making decisions on the project and at times seemed unable to make decisions. These delays not only postponed the project, they resulted in wasted time and money."

Title VII creates a "one-stop-shop" permitting process to expedite construction of non-federal surface storage facilities. Specifically, this title establishes Reclamation as the lead agency for purposes of coordinating all reviews, analysis, opinions, statements, permits, licenses, or other federal approvals required under federal law. As the point of contact for the federal government, Reclamation shall coordinate the preparation of the unified environmental documentation that will serve as the basis for all federal decisions necessary to authorize the use of federal lands, as well as coordinate the project development and construction of qualifying projects. The consolidated permitting process authorized under this title is modeled after the Obama Administration's "Interagency Rapid Response Team for Transmission". The title also allows the Secretary of the Interior to accept and spend funds contributed by a non-federal public entity to expedite the evaluation of a permit relating to the qualifying project. This process is based on provisions authorized under Section 140 of Public Law 108-137 to finance upgrades to the Hetch Hetchy project, which provides water supplies to San Francisco, California.

With the exception of the Animas-La Plata project in southwestern Colorado, Reclamation has not built any large multi-purpose dams and reservoirs over the last generation. One of the primary reasons is the length of study time and regulatory analysis. While the previous title is intended to help facilitate the construction of non-federal dams by requiring Reclamation to be the lead agency in coordinating multi-agency permitting reviews, Title VIII is designed to speed up Reclamation's feasibility study process on surface water storage that

“would be owned, funded, or operated” by the agency, a water recycling or desalination project under Title XVI of Public Law 102-575, or a rural water supply project investigated under Public Law 109-451.

Modeled after provisions in the Water Resources Reform and Development Act of 2014 (Public Law 113-121) – which passed the House by a vote of 412-4 and the Senate by 91-7 – Title VIII would reform bureaucratic permitting procedures, strengthen oversight of the agency, and ultimately allow for a more efficient process of congressional approval of water resource projects. Title VIII requires future Reclamation feasibility studies to be completed within three years after the date of initiation and have a maximum federal cost of \$3 million. It does allow for a maximum seven year extension of that time and cost if the Interior Secretary provides a detailed justification to the non-federal project sponsor and Congress. Title VIII also requires the Interior Secretary to expedite the completion of any ongoing feasibility studies initiated before the date of enactment. If the Secretary determines that the project is justified in a completed report, the Secretary shall proceed to pre-construction planning, engineering and design of the project.

To reduce the amount of duplicative review, Title VIII directs the Interior Secretary to develop and implement a coordinated environmental review process with Reclamation and the non-federal project sponsor as lead agencies for expedited environmental review of a project. Finally, Title VIII directs the Interior Secretary to develop and submit a report to the relevant committees in Congress that identifies projects, proposed projects, and proposed modifications to studies, with federal and non-federal cost estimates for all three.

Under federal law, any irrigation district or water utility that receives contracted water from a Reclamation facility must repay its allocated portion of the capital costs of the federal water project if it has a capital repayment contract. These repayment costs are typically set forth in long-term contracts between a water district and the federal government. At the same time, irrigation districts are subject to federal land-use restrictions and paperwork requirements under the Reclamation Reform Act of 1982 (Public Law 97-293) as long as they owe a capital debt to Reclamation. This same law does not allow these water users to make an early repayment to the U.S. Treasury. Title IX allows water users to pre-pay their repayment contracts, allowing for early receipts to flow into the federal government’s coffers. Title IX also creates a surface water storage enhancement program by directing the Secretary to use 50 percent of receipts from early repayment for the construction of new surface water storage. This amount of funding would be required to be repaid back by the beneficiaries.

Reclamation is responsible for maintaining over 400 dams in the western United States. Of those, 366 would likely cause loss of life if they were to fail. The Safety of Dams program allows modification of Reclamation dams if “the cause of which results from new hydrologic or seismic data or changes in the state-of-the-art criteria deemed necessary for safety purposes.” Modifications can include structural strengthening and construction of spillways, filters and

drains. Under the current Safety of Dams program, Reclamation can only evaluate the corrective action necessary to repair the facility. Current federal law does not allow the agency to consider various types of dam improvements, including dam raises, while studying or making safety repairs.

Title X allows Reclamation to study and construct, if found feasible and in compliance with Reclamation law, other dam improvements that would be paid for by project beneficiaries in conjunction with dam safety repairs under the Safety of Dams Act. Making such improvements is the equivalent of a homeowner installing a rooftop window while replacing the shingles on his/her roof.

Western water law gives states the rights to develop their own systems of water law. Over the past few years, however, Westerners have seen a number of federal proposals that have attempted to extort their water rights in return for special use permits necessary to operate businesses and family farms. For example, in 2011, the U.S. Forest Service of the Department of Agriculture issued an interim directive for ski area special use permits in Region Two (Colorado and Wyoming). The directive included a clause requiring applicant ski areas to relinquish privately held water rights to the United States as a permit condition. Similarly, last year the Forest Service published its draft "Directive on Groundwater Resource Management".

Title XI prohibits the Departments of the Interior and Agriculture from conditioning or withholding issuance, renewal, amendments or extension of any land use permit on the limitation or encumbrance of any water right to the United States. It also prohibits requiring water users to apply for or acquire a water right in the name of the United States under state law as a condition for such a permit, and prohibits the federal government from asserting jurisdiction over groundwater withdrawals or impacts on groundwater resources.

Within these provisions, H.R. 2898 incorporates similar text from several bills introduced in the 114th Congress, including H.R. 2085 (Denham), to direct the Secretary of the Interior to enter into negotiations with interested local water and power providers for the transfer of ownership, control, and operation of the New Melones Unit, Central Valley Project; H.R. 2086 (Denham), to direct the Secretary of Commerce, with the Oakdale Irrigation District and the South San Joaquin Irrigation District, California, to develop and conduct a pilot program to remove nonnative predator fishes from the Stanislaus River, California; H.R. 2097 (Newhouse), Bureau of Reclamation Surface Water Storage Streamlining Act; H.R. 1830 (Tipton), Water Rights Protection Act; and H.R. 2749 (Valadao), Dams Accountability, Maintenance, and Safety Act. It also incorporates similar text from two bills from the 113th Congress, H.R. 3980 (McClintock), Water Supply Permitting Coordination Act, and H.R. 3981 (Hastings of Washington), Accelerated Revenue, Repayment and Surface Water Storage Enhancement Act.

COMMITTEE ACTION

H.R. 2898 was introduced on June 25, 2015, by Congressman David G. Valadao (R-CA). The bill was referred to the Committee on Natural Resources, and within the Committee to the Subcommittee on Water, Power and Oceans. The bill was also additionally referred to the Committee on Agriculture. On July 8, 2015, the Natural Resources Committee met to consider the bill. The Water, Power and Oceans Subcommittee was discharged by unanimous consent. Congresswoman Grace F. Napolitano (D-CA) offered amendment designated 007; the amendment was not adopted by a bipartisan roll call vote of 15 to 24, as follows:

Committee on Natural Resources

U.S. House of Representatives

114th Congress

Date: 07-09-15

Recorded Vote # 1

Meeting on / Amendment on: Napolitano_007 Amendment to H.R. 2898 (Rep. David Valadao), "Western Water and American Food Security Act of 2015"

MEMBERS	Yes	No	Pres	MEMBERS	Yes	No	Pres
Mr. Bishop, UT, Chairman		X		Mr. LaMalfa, CA		X	
Mr. Grijalva, AZ, Ranking Member	X			Mrs. Dingell, MI			
Mr. Young, AK				Mr. Denham, CA		X	
Mrs. Napolitano, CA	X			Mr. Gallego, AZ	X		
Mr. Gohmert, TX		X		Mr. Cook, CA		X	
Mrs. Bordallo, Guam	X			Mrs. Capps, CA	X		
Mr. Lamborn, CO		X		Mr. Westerman, AR		X	
Mr. Costa, CA		X		Mr. Polis, CO	X		
Mr. Wittman, VA		X		Mr. Graves, LA		X	
Mr. Sablan, CNMI	X			Mr. Newhouse, WA		X	
Mr. Fleming, LA		X		Mr. Zinke, MT			
Mrs. Tsongas, MA	X			Mr. Hice, GA		X	
Mr. McClintock, CA		X		Ms. Radewagen, AS		X	
Mr. Peirhisi, Puerto Rico	X			Mr. MacArthur, NJ		X	
Mr. Thompson, PA		X		Mr. Mooney, WV		X	
Mr. Huffman, CA	X			Mr. Hardy, NV		X	
Mrs. Lummis, WY		X					
Mr. Ruiz, CA	X						
Mr. Benishek, MI		X					
Mr. Lowenthal, CA	X						
Mr. Duncan, SC		X					
Mr. Cartwright, PA	X						
Mr. Gosar, AZ		X					
Mr. Beyer, VA	X						
Mr. Labrador, ID		X					
Mrs. Torres, CA	X			TOTALS	15	24	

Congressman Tom McClintock (R-CA) offered an amendment designated #1; it was adopted by voice vote. Congressman Jim Costa (D-CA) offered and withdrew an amendment designated 009. Congressman Jared Huffman (D-CA) offered an amendment designated 069; the amendment was not adopted by a bipartisan roll call of 12 to 24, as follows:

Committee on Natural Resources

U.S. House of Representatives

114th Congress

Date: 07-09-15

Recorded Vote # 2

Meeting on / Amendment on: Huffman_069 Amendment to H.R. 2898 (Rep. David Valadao), "Western Water and American Food Security Act of 2015"

MEMBERS	Yes	No	Pres	MEMBERS	Yes	No	Pres
Mr. Bishop, UT, Chairman		X		Mr. LaMalfa, CA		X	
Mr. Grijalva, AZ, Ranking Member	X			Mrs. Dingell, MI			
Mr. Young, AK				Mr. Denham, CA		X	
Mrs. Napolitano, CA	X			Mr. Gallego, AZ	X		
Mr. Gohmert, TX		X		Mr. Cook, CA		X	
Mrs. Bordallo, Guam	X			Mrs. Capps, CA	X		
Mr. Lamborn, CO		X		Mr. Westerman, AR		X	
Mr. Costa, CA		X		Mr. Polis, CO			
Mr. Wittman, VA		X		Mr. Graves, LA			
Mr. Sablan, CNMI	X			Mr. Newhouse, WA		X	
Mr. Fleming, LA		X		Mr. Zinke, MT		X	
Mrs. Tsongas, MA	X			Mr. Ilice, GA		X	
Mr. McClintock, CA		X		Ms. Radewagen, AS		X	
Mr. Peirhisi, Puerto Rico	X			Mr. MacArthur, NJ		X	
Mr. Thompson, PA		X		Mr. Mooney, WV		X	
Mr. Huffman, CA	X			Mr. Hardy, NV		X	
Mrs. Lummis, WY		X					
Mr. Ruiz, CA	X						
Mr. Benishek, MI		X					
Mr. Lowenthal, CA	X						
Mr. Duncan, SC		X					
Mr. Cartwright, PA							
Mr. Gosar, AZ		X					
Mr. Beyer, VA	X						
Mr. Labrador, ID		X					
Mrs. Torres, CA				TOTALS	12	24	

Congressman Jim Costa (D-CA) offered an amendment designated 010; it was adopted by voice vote. Congressman Jared Huffman (D-CA) offered an amendment designated 070; the amendment was not adopted by voice vote. Congressman Alan S. Lowenthal (D-CA) offered an amendment designated 034; it was not adopted by voice vote. Congressman Raul Ruiz (D-CA) offered an amendment designated 023; it was not adopted by a bipartisan roll call vote of 12 to 23, as follows:

Committee on Natural Resources

U.S. House of Representatives

114th Congress

Date: 07-09-15

Recorded Vote # 3

Meeting on / Amendment on: Ruiz_023 Amendment to H.R. 2898 (Rep. David Valadao), "Western Water and American Food Security Act of 2015"

MEMBERS	Yes	No	Pres	MEMBERS	Yes	No	Pres
Mr. Bishop, UT, Chairman		X		Mr. LaMalfa, CA		X	
Mr. Grijalva, AZ, Ranking Member	X			Mrs. Dingell, MI			
Mr. Young, AK				Mr. Denham, CA		X	
Mrs. Napolitano, CA	X			Mr. Gallego, AZ	X		
Mr. Gohmert, TX		X		Mr. Cook, CA		X	
Mrs. Bordallo, Guam	X			Mrs. Capps, CA	X		
Mr. Lamborn, CO		X		Mr. Westerman, AR		X	
Mr. Costa, CA		X		Mr. Polis, CO			
Mr. Wittman, VA				Mr. Graves, LA		X	
Mr. Sablan, CNMI	X			Mr. Newhouse, WA		X	
Mr. Fleming, LA		X		Mr. Zinke, MT		X	
Mrs. Tsongas, MA	X			Mr. Hice, GA			
Mr. McClintock, CA		X		Ms. Radewagen, AS		X	
Mr. Peirluisi, Puerto Rico	X			Mr. MacArthur, NJ		X	
Mr. Thompson, PA		X		Mr. Mooney, WV		X	
Mr. Huffman, CA	X			Mr. Hardy, NV		X	
Mrs. Lummis, WY		X					
Mr. Ruiz, CA	X						
Mr. Benishel, MI		X					
Mr. Lowenthal, CA	X						
Mr. Duncan, SC		X					
Mr. Cartwright, PA							
Mr. Gosar, AZ		X					
Mr. Beyer, VA							
Mr. Labrador, ID		X					
Mrs. Torres, CA	X			TOTALS	12	23	

Congressman Raul M. Grijalva (D-AZ) offered an amendment designated #1; it was not adopted by a bipartisan roll call vote of 13 to 24, as follows:

Committee on Natural Resources

U.S. House of Representatives

114th Congress

Date: 07-09-15

Recorded Vote # 4

Meeting on / Amendment on: **Grijalva #1 Amendment to H.R. 2898 (Rep. David Valadao), "Western Water and American Food Security Act of 2015"**

MEMBERS	Yes	No	Pres	MEMBERS	Yes	No	Pres
Mr. Bishop, UT, Chairman		X		Mr. LaMalfa, CA		X	
Mr. Grijalva, AZ, Ranking Member	X			Mrs. Dingell, MI			
Mr. Young, AK				Mr. Denham, CA		X	
Mrs. Napolitano, CA	X			Mr. Gallego, AZ	X		
Mr. Gohmert, TX		X		Mr. Cook, CA		X	
Mrs. Bordallo, Guam	X			Mrs. Capps, CA	X		
Mr. Lamborn, CO		X		Mr. Westerman, AR		X	
Mr. Costa, CA		X		Mr. Polis, CO			
Mr. Wittman, VA		X		Mr. Graves, LA		X	
Mr. Sablan, CNMI	X			Mr. Newhouse, WA		X	
Mr. Fleming, LA		X		Mr. Zinke, MT		X	
Mrs. Tsongas, MA	X			Mr. Hice, GA			
Mr. McClintock, CA		X		Ms. Radewagen, AS		X	
Mr. Peirluisi, Puerto Rico	X			Mr. MacArthur, NJ		X	
Mr. Thompson, PA		X		Mr. Mooney, WV		X	
Mr. Huffman, CA	X			Mr. Hardy, NV		X	
Mrs. Lummis, WY		X					
Mr. Ruiz, CA	X						
Mr. Benishek, MI		X					
Mr. Lowenthal, CA	X						
Mr. Duncan, SC		X					
Mr. Cartwright, PA	X						
Mr. Gosar, AZ		X					
Mr. Beyer, VA							
Mr. Labrador, ID		X					
Mrs. Torres, CA	X			TOTALS	13	24	

Congressman Jared Huffman (D-CA) offered an amendment designated 067; it was not adopted by a bipartisan roll call vote of 13 to 23, as follows:

Committee on Natural Resources

U.S. House of Representatives

114th Congress

Date: 07-09-15

Recorded Vote # 5

Meeting on / Amendment on: Huffman_067 Amendment to H.R. 2898 (Rep. David Valadao), "Western Water and American Food Security Act of 2015"

MEMBERS	Yes	No	Pres	MEMBERS	Yes	No	Pres
Mr. Bishop, UT, Chairman		X		Mr. LaMalfa, CA		X	
Mr. Grijalva, AZ, Ranking Member	X			Mrs. Dingell, MI			
Mr. Young, AK				Mr. Denham, CA		X	
Mrs. Napolitano, CA	X			Mr. Gallego, AZ	X		
Mr. Gohmert, TX				Mr. Cook, CA		X	
Mrs. Bordallo, Guam	X			Mrs. Capps, CA	X		
Mr. Lamborn, CO		X		Mr. Westerman, AR		X	
Mr. Costa, CA		X		Mr. Polis, CO			
Mr. Wittman, VA		X		Mr. Graves, LA		X	
Mr. Sablan, CNMI	X			Mr. Newhouse, WA		X	
Mr. Fleming, IA		X		Mr. Zinke, MT		X	
Mrs. Tsongas, MA	X			Mr. Hice, GA			
Mr. McClintock, CA		X		Ms. Radewagen, AS		X	
Mr. Peirluosi, Puerto Rico	X			Mr. MacArthur, NJ		X	
Mr. Thompson, PA		X		Mr. Mooney, WV		X	
Mr. Huffman, CA	X			Mr. Hardy, NV		X	
Mrs. Lummis, WY		X					
Mr. Ruiz, CA	X						
Mr. Benishek, MI		X					
Mr. Lowenthal, CA	X						
Mr. Duncan, SC		X					
Mr. Cartwright, PA	X						
Mr. Gosar, AZ		X					
Mr. Beyer, VA							
Mr. Labrador, ID		X					
Mrs. Torres, CA	X			TOTALS	13	23	

Congressman Jared Huffman (D-CA) offered an amendment designated 071; it was not adopted by a bipartisan roll call vote of 12 to 23, as follows:

Committee on Natural Resources

U.S. House of Representatives

114th Congress

Date: 07-09-15

Recorded Vote # 6

Meeting on / Amendment on: Huffman_071 Amendment to H.R. 2898 (Rep. David Valadao), "Western Water and American Food Security Act of 2015"

MEMBERS	Yes	No	Pres	MEMBERS	Yes	No	Pres
Mr. Bishop, UT, Chairman		X		Mr. LaMalfa, CA		X	
Mr. Grijalva, AZ, Ranking Member	X			Mrs. Dingell, MI			
Mr. Young, AK				Mr. Denham, CA		X	
Mrs. Napolitano, CA	X			Mr. Gallego, AZ	X		
Mr. Gohmert, TX				Mr. Cook, CA		X	
Mrs. Bordallo, Guam	X			Mrs. Capps, CA	X		
Mr. Lamborn, CO		X		Mr. Westerman, AR		X	
Mr. Costa, CA		X		Mr. Polis, CO			
Mr. Wittman, VA		X		Mr. Graves, LA		X	
Mr. Sablan, CNMI				Mr. Newhouse, WA		X	
Mr. Fleming, LA		X		Mr. Zinke, MT		X	
Mrs. Tsongas, MA	X			Mr. Hice, GA			
Mr. McClintock, CA		X		Ms. Radewagen, AS		X	
Mr. Peirluisi, Puerto Rico	X			Mr. MacArthur, NJ		X	
Mr. Thompson, PA		X		Mr. Mooney, WV		X	
Mr. Huffman, CA	X			Mr. Hardy, NV		X	
Mrs. Lummis, WY		X					
Mr. Ruiz, CA	X						
Mr. Benishek, MI		X					
Mr. Lowenthal, CA	X						
Mr. Duncan, SC		X					
Mr. Cartwright, PA	X						
Mr. Gosar, AZ		X					
Mr. Beyer, VA							
Mr. Labrador, ID		X					
Mrs. Torres, CA	X			TOTALS	12	23	

On July 9, 2015, the bill, as amended, was adopted and ordered favorably reported to the House of Representatives by a bipartisan roll call vote of 23 to 12, as follows:

Committee on Natural Resources

U.S. House of Representatives

114th Congress

Date: 07-09-15

Recorded Vote # 7

Meeting on / Amendment on: **On favorably reporting H.R. 2898 (Rep. David Valadao), "Western Water and American Food Security Act of 2015"**

MEMBERS	Yes	No	Pres	MEMBERS	Yes	No	Pres
Mr. Bishop, UT, Chairman	X			Mr. LaMalfa, CA	X		
Mr. Grijalva, AZ, Ranking Member		X		Mrs. Dingell, MI			
Mr. Young, AK				Mr. Denham, CA	X		
Mrs. Napolitano, CA		X		Mr. Gallego, AZ		X	
Mr. Gohmert, TX				Mr. Cook, CA	X		
Mrs. Bordallo, Guam		X		Mrs. Capps, CA		X	
Mr. Lamborn, CO	X			Mr. Westerman, AR	X		
Mr. Costa, CA	X			Mr. Polis, CO			
Mr. Wittman, VA	X			Mr. Graves, LA	X		
Mr. Sablan, CNMI				Mr. Newhouse, WA	X		
Mr. Fleming, LA	X			Mr. Zinke, MT	X		
Mrs. Tsongas, MA		X		Mr. Hice, GA			
Mr. McClintock, CA	X			Ms. Radewagen, AS	X		
Mr. Peirluisi, Puerto Rico		X		Mr. MacArthur, NJ	X		
Mr. Thompson, PA	X			Mr. Mooney, WV	X		
Mr. Huffman, CA		X		Mr. Hardy, NV	X		
Mrs. Lummis, WY	X						
Mr. Ruiz, CA		X					
Mr. Benishek, MI	X						
Mr. Lowenthal, CA		X					
Mr. Duncan, SC	X						
Mr. Cartwright, PA		X					
Mr. Gosar, AZ	X						
Mr. Beyer, VA							
Mr. Labrador, ID	X						
Mrs. Torres, CA		X		TOTALS	23	12	

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of Rule X and clause 3(c)(1) of Rule XIII of the Rules of the House of Representatives, the Committee on Natural Resources' oversight findings and recommendations are reflected in the body of this report.

COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(1) of Rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(2)(B) of that Rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974. Under clause 3(c)(3) of Rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has requested but not received a cost estimate for this bill from the Director of the Congressional Budget Office but will be filing a supplemental report on the bill when the cost estimate is received.

2. **Section 308(a) of Congressional Budget Act.** As required by clause 3(c)(2) of Rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, the Committee does not currently believe this bill contains any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures but may revise this statement when the requested Congressional Budget Office cost estimate is received.

3. **General Performance Goals and Objectives.** As required by clause 3(c)(4) of Rule XIII, the general performance goal or objective of this bill is to provide drought relief to the State of California and other Western states.

EARMARK STATEMENT

This bill does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined under clause 9(e), 9(f), and 9(g) of Rule XXI of the Rules of the House of Representatives.

FEDERAL ADVISORY COMMITTEE STATEMENT

The functions of the proposed advisory committee authorized in this bill are not currently being nor could they be performed by one or more agencies, an advisory committee already in existence or by enlarging the mandate of an existing advisory committee.

COMPLIANCE WITH PUBLIC LAW 104-4

This bill contains no unfunded mandates.

COMPLIANCE WITH H. RES. 5

Directed Rule Making. The Chairman believes that this bill directs the Secretary of the Interior to conduct one specific rule-making proceeding.

Duplication of Existing Programs. This bill does not establish or reauthorize a program of the federal government known to be duplicative of another program. Such program was not included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111-139 or identified in the most recent Catalog of Federal Domestic Assistance published pursuant to the Federal Program Information Act (Public Law 95-220, as amended by Public Law 98-169) as relating to other programs.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, and existing law in which no change is proposed is shown in roman):

CENTRAL VALLEY PROJECT IMPROVEMENT ACT

TITLE XXXIV—CENTRAL VALLEY PROJECT
IMPROVEMENT ACT

SEC. 3401. SHORT TITLE.

This title may be cited as the “Central Valley Project Improvement Act”.

SEC. 3402. PURPOSES.

The purposes of this title shall be—

(a) to protect, restore, and enhance fish, wildlife, and associated habitats in the Central Valley and Trinity River basins of California;

(b) to address impacts of the Central Valley Project on fish, wildlife and associated habitats;

(c) to improve the operational flexibility of the Central Valley Project;

(d) to increase water-related benefits provided by the Central Valley Project to the State of California through expanded use of voluntary water transfers and improved water conservation;

(e) to contribute to the State of California’s interim and long-term efforts to protect the San Francisco Bay/Sacramento-San Joaquin Delta Estuary;

(f) to achieve a reasonable balance among competing demands for use of Central Valley Project water, including the requirements of fish and wildlife, agricultural, municipal and industrial and power contractors[.]

(g) to ensure that water dedicated to fish and wildlife purposes by this title is replaced and provided to Central Valley Project water contractors by December 31, 2018, at the lowest cost reasonably achievable; and

(h) to facilitate and expedite water transfers in accordance with this Act.

SEC. 3403. DEFINITIONS.

As used in this title—

[(a) the term “anadromous fish” means those stocks of salmon (including steelhead), striped bass, sturgeon, and American shad that ascend the Sacramento and San Joaquin rivers and their tributaries and the Sacramento-San Joaquin

Delta to reproduce after maturing in San Francisco Bay or the Pacific Ocean;]

(a) the term “anadromous fish” means those native stocks of salmon (including steelhead) and sturgeon that, as of October 30, 1992, were present in the Sacramento and San Joaquin Rivers and their tributaries and ascend those rivers and their tributaries to reproduce after maturing in San Francisco Bay or the Pacific Ocean;

(b) the terms “artificial propagation” and “artificial production” mean spawning, incubating, hatching, and rearing fish in a hatchery or other facility constructed for fish production;

(c) the term “Central Valley Habitat Joint Venture” means the association of Federal and State agencies and private parties established for the purpose of developing and implementing the North American Waterfowl Management Plan as it pertains to the Central Valley of California;

(d) the terms “Central Valley Project” or “project” mean all Federal reclamation projects located within or diverting water from or to the watershed of the Sacramento and San Joaquin rivers and their tributaries as authorized by the Act of August 26, 1937 (50 Stat. 850) and all Acts amendatory or supplemental thereto, including but not limited to the Act of October 17, 1940 (54 Stat. 1198, 1199), Act of December 22, 1944 (58 Stat. 887), Act of October 14, 1949 (63 Stat. 852), Act of September 26, 1950 (64 Stat. 1036), Act of August 27, 1954 (68 Stat. 879), Act of August 12, 1955 (69 Stat. 719), Act of June 3, 1960 (74 Stat. 156), Act of October 23, 1962 (76 Stat. 1173), Act of September 2, 1965 (79 Stat. 615), Act of August 19, 1967 (81 Stat. 167), Act of August 27, 1967 (81 Stat. 173), Act of October 23, 1970 (84 Stat. 1097), Act of September 28, 1976 (90 Stat. 1324) and Act of October 27, 1986 (100 Stat. 3050);

(e) the term “Central Valley Project service area” means that area of the Central Valley and San Francisco Bay Area where water service has been expressly authorized pursuant to the various feasibility studies and consequent congressional authorizations for the Central Valley Project;

(f) the term “Central Valley Project water” means all water that is developed, diverted, stored, or delivered by the Secretary in accordance with the statutes authorizing the Central Valley Project and in accordance with the terms and conditions of water rights acquired pursuant to California law;

(g) the term “full cost” has the meaning given such term in paragraph (3) of section 202 of the Reclamation Reform Act of 1982;

(h) the term “natural production” means fish produced to adulthood without direct human intervention in the spawning, rearing, or migration processes;

(i) the term “Reclamation laws” means the Act of June 17, 1902 (82 Stat. 388) and all Acts amendatory thereof or supplemental thereto;

(j) the term “Refuge Water Supply Report” means the report issued by the Mid-Pacific Region of the Bureau of Reclamation of the U.S. Department of the Interior entitled Report

on Refuge Water Supply Investigations, Central Valley Hydrologic Basin, California (March 1989);

(k) the terms "repayment contract" and "water service contract" have the same meaning as provided in sections 9(d) and 9(e) of the Reclamation Project Act of 1939 (53 Stat. 1187, 1195), as amended;

(l) the terms "Restoration Fund" and "Fund" mean the Central Valley Project Restoration Fund established by this title; [and,]

(m) the term "Secretary" means the Secretary of the Interior[.]; and

(n) the term "reasonable flow" means water flows capable of being maintained taking into account competing consumptive uses of water and economic, environmental, and social factors.

* * * * *

SEC. 3405. WATER TRANSFERS, IMPROVED WATER MANAGEMENT AND CONSERVATION.

(a) WATER TRANSFERS.—[In order to]

(1) *IN GENERAL*.—*In order to* assist California urban areas, agricultural water users, and others in meeting their future water needs, subject to the conditions and requirements of this subsection, all individuals or districts who receive Central Valley Project water under water service or repayment contracts, water rights settlement contracts or exchange contracts entered into prior to or after the date of enactment of this title are authorized to transfer all or a portion of the water subject to such contract to any other California water user or water agency, State or Federal agency, Indian tribe, or private nonprofit organization for project purposes or any purpose recognized as beneficial under applicable State law. [Except as provided herein]

(2) *EXPEDITED TRANSFER OF WATER*.—*The Secretary shall take all necessary actions to facilitate and expedite transfers of Central Valley Project water in accordance with—*

(A) *this Act;*

(B) *any other applicable provision of the reclamation laws; and*

(C) *the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).*

(3) *TERMS*.—*Except as otherwise provided in this section,* the terms of such transfers shall be set by mutual agreement between the transferee and the transferor.

[(1)] (4) *CONDITIONS FOR TRANSFERS*.—All transfers to Central Valley Project water authorized by this subsection shall be subject to review and approval by the Secretary under the conditions specified in this subsection. Transfers involving more than 20 percent of the Central Valley Project water subject to long-term contract within any contracting district or agency shall also be subject to review and approval by such district or agency under the conditions specified in this subsection:

(A) No transfer ~~to~~ or combination of transfers authorized by this subsection shall exceed, in any year, the average annual quantity of water under contract actually delivered to the contracting district or agency during the last three years of normal water delivery prior to the date of enactment of this title.

(B) All water under the contract which is transferred under authority of this subsection to any district or agency which is not a Central Valley Project contractor at the time of enactment of this title shall, if used for irrigation purposes, be repaid at the greater of the full-cost or cost of service rates, or, if the water is used for municipal and industrial purposes, at the greater of the cost of service or municipal and industrial rates.

(C) No transfers authorized by this subsection shall be approved unless the transfer is between a willing buyer and a willing seller under such terms and conditions as may be mutually agreed upon.

(D) No transfer authorized by this subsection shall be approved unless the transfer is consistent with State law, including but not limited to provisions of the California Environmental Quality Act.

(E) All transfers authorized by this subsection shall be deemed a beneficial use of water by the transferor for the purposes of section 8 of the Act of June 17, 1902, 32 Stat. 390, 43 U.S.C. 372.

(F) All transfers entered into pursuant to this subsection for uses outside the Central Valley Project service area shall be subject to a right of first refusal on the same terms and conditions by entities within the Central Valley Project service area. The right of first refusal must be exercised within ninety days from the date that notice is provided of the proposed transfer. Should an entity exercise the right of first refusal, it must compensate the transferee who had negotiated the agreement upon which the right of first refusal is being exercised for that entity's total costs associated with the development and negotiation of the transfer.

(G) No transfer authorized by this subsection shall be considered by the Secretary as conferring supplemental or additional benefits on Central Valley Project water contractors as provided in section 203 of Public Law 97-293 (43 U.S.C. 390(cc)).

(H) The Secretary shall not approve a transfer authorized by this subsection unless the Secretary has determined, consistent with paragraph ~~3405(a)(2)~~ of this title ~~(5)~~, that the transfer will not violate the provisions of this title or other Federal law and will have no significant adverse effect on the Secretary's ability to deliver water pursuant to the Secretary's Central Valley Project contractual obligations or fish and wildlife obligations under this title because of limitations in conveyance or pumping capacity.

(I) The water subject to any transfer undertaken pursuant to this subsection shall be limited to water that would have been consumptively used or irretrievably lost to beneficial use during the year or years of the transfer.

(J) The Secretary shall not approve a transfer authorized by this subsection unless the Secretary determines, consistent with paragraph [3405(a)(2) of this title] (5), that such transfer will have no significant long-term adverse impact on groundwater conditions in the transferor's service area.

(K) The Secretary shall not approve a transfer unless the Secretary determines, consistent with paragraph [3405(a)(2) of this title] (5), that such transfer will have no unreasonable impact on the water supply, operations, or financial conditions of the transferor's contracting district or agency or its water users.

(L) The Secretary shall not approve a transfer if the Secretary determines, consistent with paragraph [3405(a)(2) of this title] (5), that such transfer would result in a significant reduction in the quantity or decrease in the quality of water supplies currently used for fish and wildlife purposes, unless the Secretary determines pursuant to findings setting forth the basis for such determination that such adverse effects would be more than offset by the benefits of the proposed transfer. In the event of such a determination, the Secretary shall develop and implement alternative measures and mitigation activities as integral and concurrent elements of any such transfer to provide fish and wildlife benefits substantially equivalent to those lost as a consequence of such transfer.

(M) Transfers between Central Valley Project contractors within counties, watersheds, or other areas of origin, as those terms are utilized under California law, shall be deemed to meet the conditions set forth in subparagraphs (A) and (I) of this paragraph.

[(2)] (5) REVIEW AND APPROVAL OF TRANSFERS.—All transfers subject to review and approval under this subsection shall be reviewed and approved in a manner consistent with the following:

(A) Decisions on water transfers subject to review by a contracting district or agency or by the Secretary shall be rendered within ninety days of receiving a written transfer proposal from the transferee or transferor. Such written proposal should provide all information reasonably necessary to determine whether the transfer complies with the terms and conditions of this subsection.

(B) All transfers subject to review by a contracting district or agency shall be reviewed in a public process similar to that provided for in section 226 of Public Law 97–293.

(C) The contracting district or agency or the Secretary shall approve all transfers subject to review and approval by such entity if such transfers are consistent with the

terms and conditions of this subsection. To disapprove a transfer, the contracting district or agency or the Secretary shall inform the transferee and transferor, in writing, why the transfer does not comply with the terms and conditions of this subsection and what alternatives, if any, could be included so that the transfer would reasonably comply with the requirements of this subsection.

(D) If the contracting district or agency or the Secretary fails to approve or disapprove a proposed transfer within ninety days of receiving a complete written proposal from the transferee or transferor, then the transfer shall be deemed approved.

(E) *The contracting district from which the water is coming, the agency, or the Secretary shall determine if a written transfer proposal is complete within 45 days after the date of submission of the proposal. If the contracting district or agency or the Secretary determines that the proposal is incomplete, the district or agency or the Secretary shall state with specificity what must be added to or revised for the proposal to be complete.*

[(3)] (6) Transfers executed after September 30, 1999 shall only be governed by the provisions of subparagraphs [3405(a)(1)(A)–(C), (E), (G), (H), (I), (L), and (M) of this title] (A) through (C), (E), (G), (H), (I), (L), and (M) of paragraph (4), and by State law.

(b) **METERING OF WATER USE REQUIRED.**—All Central Valley Project water service or repayment contracts for agricultural, municipal, or industrial purposes that are entered into, renewed, or amended under any provision of Federal Reclamation law after the date of enactment of this title, shall provide that the contracting district or agency shall ensure that all surface water delivery systems within its boundaries are equipped with water measuring devices or water measuring methods of comparable effectiveness acceptable to the Secretary within five years of the date of contract execution, amendment, or renewal, and that any new surface water delivery systems installed within its boundaries on or after the date of contract renewal are so equipped. The contracting district or agency shall inform the Secretary and the State of California annually as to the monthly volume of surface water delivered within its boundaries.

(c) **STATE AND FEDERAL WATER QUALITY STANDARDS.**—All Central Valley Project water service or repayment contracts for agricultural, municipal, or industrial purposes that are entered into, renewed, or amended under any provision of Federal Reclamation law after the date of enactment of this title, shall provide that the contracting district or agency shall be responsible for compliance with all applicable State and Federal water quality standards applicable to surface and subsurface agricultural drainage discharges generated within its boundaries. This subsection shall not affect or alter any legal obligation of the Secretary to provide drainage services.

(d) **WATER PRICING REFORM.**—All Central Valley Project water service or repayment contracts for a term longer than three years

for agricultural, municipal, or industrial purposes that are entered into, renewed, or amended under any provision of Federal Reclamation law after the date of enactment of this title shall provide that all project water subject to contract shall be made available to districts, agencies, and other contracting entities pursuant to a system of tiered water pricing. Such a system shall specify rates for each district, agency or entity based on an inverted block rate structure with the following provisions:

(1) the first rate tier shall apply to a quantity of water up to 80 percent of the contract total and shall not be less than the applicable contract rate;

(2) the second rate tier shall apply to that quantity of water over 80 percent and under 90 percent of the contract total and shall be at a level halfway between the rates established under paragraphs (1) and (3) of this subsection;

(3) the third rate tier shall apply to that quantity of water over 90 percent of the contract total and shall not be less than the full cost rate; and

(4) the Secretary shall charge contractors only for water actually delivered.

The Secretary shall waive application of this subsection as it relates to any project water delivered to produce a crop which the Secretary determines will provide significant and quantifiable habitat values for waterfowl in fields where the water is used and the crops are produced: *Provided*, That such waiver shall apply only if such habitat values can be assured consistent with the purposes of this title through binding agreements executed with or approved by the Secretary.

(e) WATER CONSERVATION STANDARDS.—The Secretary shall establish and administer an office of Central Valley Project water conservation best management practices that shall, in consultation with the Secretary of Agriculture, the California Department of Water Resources, California academic institutions, and Central Valley Project water users, develop criteria for evaluating the adequacy of all water conservation plans developed by project contractors, including those plans required by section 210 of the Reclamation Reform Act of 1982.

(1) Criteria developed pursuant to this subsection shall be established within six months following enactment of this title and shall be reviewed periodically thereafter, but no less than every three years, with the purpose of promoting the highest level of water use efficiency reasonably achievable by project contractors using best available cost-effective technology and best management practices. The criteria shall include, but not be limited to agricultural water suppliers' efficient water management practices developed pursuant to California State law or reasonable alternatives.

(2) The Secretary, through the office established under this subsection, shall review and evaluate within 18 months following enactment of this title all existing conservation plans submitted by project contractors to determine whether they meet the conservation and efficiency criteria established pursuant to this subsection.

(3) In developing the water conservation best management practice criteria required by this subsection, the Secretary shall take into account and grant substantial deference to the recommendations for action specific to water conservation and drainage source reduction proposed in the Final Report of the San Joaquin Valley Drainage Program, entitled A Management Plan for Agricultural Subsurface Drainage and Related Problems on the Westside San Joaquin Valley (September 1990).

(f) INCREASED REVENUES.—All revenues received by the Secretary as a result of the increased repayment rates applicable to water transferred from irrigation use to municipal and industrial use under subsection 3405(a) of this section, and all increased revenues received by the Secretary as a result of the increased water prices established under subsection 3405(d) of this section, shall be covered to the Restoration Fund.

SEC. 3406. FISH, WILDLIFE AND HABITAT RESTORATION.

(a) AMENDMENTS TO CENTRAL VALLEY PROJECT AUTHORIZATIONS.—Act of August 26, 1937.—Section 2 of the Act of August 26, 1937 (chapter 832; 50 Stat. 850), as amended, is amended—

(1) in the second proviso of subsection (a), by inserting “and mitigation, protection, and restoration of fish and wildlife” after “Indian reservations,”;

(2) in the last proviso of subsection (a), by striking “domestic uses;” and inserting “domestic uses and fish and wildlife mitigation, protection and restoration purposes;” and by striking “power” and inserting “power and fish and wildlife enhancement”;

(3) by adding at the end the following: “The mitigation for fish and wildlife losses incurred as a result of construction, operation, or maintenance of the Central Valley Project shall be based on the replacement of ecologically equivalent habitat and shall take place in accordance with the provisions of this title and concurrent with any future actions which adversely affect fish and wildlife populations or their habitat but shall have no priority over them.”; and

(4) by adding at the end the following: “(e) Nothing in this title shall affect the State’s authority to condition water rights permits for the Central Valley Project.”

(b) FISH AND WILDLIFE RESTORATION ACTIVITIES.—The Secretary, immediately upon the enactment of this title, shall operate the Central Valley Project to meet all obligations under State and Federal law, including but not limited to the Federal Endangered Species Act, 16 U.S.C. 1531, et seq., and all decisions of the California State Water Resources Control Board establishing conditions on applicable licenses and permits for the project. The Secretary, in consultation with other State and Federal agencies, Indian tribes, and affected interests, is further authorized and directed to:

(1) develop within three years of enactment and implement a program which makes all reasonable efforts to ensure that, by the year 2002, natural production of anadromous fish in Central Valley rivers and streams will be sustainable, on a long-term basis, at levels not less than twice the average levels

attained during the period of 1967–1991; *Provided*, That this goal shall not apply to the San Joaquin River between Friant Dam and the Mendota Pool, for which a separate program is authorized under subsection 3406(c) of this title; *Provided further*, That the programs and activities authorized by this section shall, when fully implemented, be deemed to meet the mitigation, protection, restoration, and enhancement purposes established by subsection 3406(a) of this title; *And provided further*, That in the course of developing and implementing this program the Secretary shall make all reasonable efforts consistent with the requirements of this section to address other identified adverse environmental impacts of the Central Valley Project not specifically enumerated in this section.

(A) This program shall give first priority to measures which protect and restore natural channel and riparian habitat values through habitat restoration actions, modifications to Central Valley Project operations, and implementation of the supporting measures mandated by this subsection; shall be reviewed and updated every five years; and shall describe how the Secretary intends to operate the Central Valley Project to meet the fish, wildlife, and habitat restoration goals and requirements set forth in this title and other project purposes.

(B) As needed to achieve the goals of this program, the Secretary is authorized and directed to modify Central Valley Project operations to provide flows of suitable quality, quantity, and timing to protect all life stages of anadromous fish, except that such flows shall be provided from the quantity of water dedicated to fish, wildlife, and habitat restoration purposes under paragraph (2) of this subsection; from the water supplies acquired pursuant to paragraph (3) of this subsection; and from other sources which do not conflict with fulfillment of the Secretary's remaining contractual obligations to provide Central Valley Project water for other authorized purposes. Instream flow needs for all Central Valley Project controlled streams and rivers shall be determined by the Secretary based on recommendations of the United States Fish and Wildlife Service after consultation with the California Department of Fish and Game.

(C) The Secretary shall cooperate with the State of California to ensure that, to the greatest degree practicable, the specific quantities of yield dedicated to and managed for fish and wildlife purposes under this title are credited against any additional obligations of the Central Valley Project which may be imposed by the State of California following enactment of this title, including but not limited to increased flow and reduced export obligations which may be imposed by the California State Water Resources Control Board in implementing San Francisco Bay/Sacramento-San Joaquin Delta Estuary standards pursuant to the review ordered by the California Court of Appeals in *United States v. State Water Resources Control*

Board, 182 Cal.App.3d 82 (1986), and that, to the greatest degree practicable, the programs and plans required by this title are developed and implemented in a way that avoids inconsistent or duplicative obligations from being imposed upon Central Valley Project water and power contractors.

(D) Costs associated with this paragraph shall be reimbursable pursuant to existing statutory and regulatory procedures.

(2) upon enactment of this title dedicate and manage annually eight hundred thousand acre-feet of Central Valley Project yield for the primary purpose of implementing the fish, wildlife, and habitat restoration purposes and measures authorized by this title; to assist the State of California in its efforts to protect the waters of the San Francisco Bay/Sacramento-San Joaquin Delta Estuary; and to help to meet such obligations as may be legally imposed upon the Central Valley Project under State or Federal law following the date of enactment of this title, including but not limited to additional obligations under the Federal Endangered Species Act. For the purpose of this section, the term "Central Valley Project yield" means the delivery capability of the Central Valley Project during the 1928–1934 drought period after fishery, water quality, and other flow and operational requirements imposed by terms and conditions existing in licenses, permits, and other agreements pertaining to the Central Valley Project under applicable State or Federal law existing at the time of enactment of this title have been met.

(A) Such quantity of water shall be in addition to the quantities needed to implement paragraph 3406(d)(1) of this title and in addition to all water allocated pursuant to paragraph (23) of this subsection for release to the Trinity River for the purposes of fishery restoration, propagation, and maintenance; and shall be supplemented by all water that comes under the Secretary's control pursuant to subsections 3406(b)(3), 3408(h)–(i), and through other measures consistent with subparagraph 3406(b)(1)(B) of this title.

(B) Such quantity of water shall be managed pursuant to conditions specified by the United States Fish and Wildlife Service after consultation with the Bureau of Reclamation and the California Department of Water Resources and in cooperation with the California Department of Fish and Game.

[Pursuant to section 604(b) of H.R. 2898 (as reported), "[i]f the plan required in subsection (a) has not increased the Central Valley Project yield by 800,000 acre-feet within 5 years after the enactment of this Act", then subparagraph (C) of section 3406(b)(2) of the Central Valley Project Improvement Act is amended to read as follows:]

[(C) The Secretary may temporarily reduce deliveries of the quantity of water dedicated under this paragraph up to 25 percent of such total whenever reductions due to hy-

drologic circumstances are imposed upon agricultural deliveries of Central Valley Project water; *Provided*, That such reductions shall not exceed in percentage terms the reductions imposed on agricultural service contractors; *Provided further*, That nothing in this subsection or subsection 3406(e) shall require the Secretary to operate the project in a way that jeopardizes human health or safety.]

(C) If by March 15, 2021, and any year thereafter the quantity of Central Valley Project water forecasted to be made available to all water service or repayment contractors of the Central Valley Project is below 50 percent of the total quantity of water to be made available under said contracts, the quantity of Central Valley Project yield dedicated and managed for that year under this paragraph shall be reduced by 25 percent.

(D) If the quantity of water dedicated under this paragraph, or any portion thereof, is not needed for the purposes of this section, based on a finding by the Secretary, the Secretary is authorized to make such water available for other project purposes.

(3) develop and implement a program in coordination and in conformance with the plan required under paragraph (1) of this subsection for the acquisition of a water supply to supplement the quantity of water dedicated to fish and wildlife purposes under paragraph (2) of this subsection and to fulfill the Secretary's obligations under paragraph 3406(d)(2) of this title. The program should identify how the Secretary intends to utilize, in particular the following options: improvements in or modifications of the operations of the project; water banking; conservation; transfers; conjunctive use; and temporary and permanent land fallowing, including purchase, lease, and option of water, water rights, and associated agricultural land.

(4) develop and implement a program to mitigate for fishery impacts associated with operations of the Tracy Pumping Plant. Such program shall include, but is not limited to improvement or replacement of the fish screens and fish recovery facilities and practices associated with the Tracy Pumping Plant. Costs associated with this paragraph shall be reimbursed in accordance with the following formula: 37.5 percent shall be reimbursed as main project features, 37.5 percent shall be considered a nonreimbursable Federal expenditure, and 25 percent shall be paid by the State of California. The reimbursable share of funding for this and other facility repairs, improvements, and construction shall be allocated among project water and power users in accordance with existing project cost allocation procedures.

(5) develop and implement a program to mitigate for fishery impacts resulting from operations of the Contra Costa Canal Pumping Plant No. 1. Such program shall provide for construction and operation of fish screening and recovery facilities, and for modified practices and operations. Costs associated with this paragraph shall be reimbursed in accordance with the following formula: 37.5 percent shall be reimbursed as

main project features, 37.5 percent shall be considered a nonreimbursable Federal expenditure, and 25 percent shall be paid by the State of California.

(6) install and operate a structural temperature control device at Shasta Dam and develop and implement modifications in CVP operations as needed to assist in the Secretary's efforts to control water temperatures in the upper Sacramento River in order to protect anadromous fish in the upper Sacramento River. Costs associated with planning and construction of the structural temperature control device shall be reimbursed in accordance with the following formula: 37.5 percent shall be reimbursed as main project features, 37.5 percent shall be considered a nonreimbursable Federal expenditure, and 25 percent shall be paid by the State of California.

(7) meet flow standards and objectives and diversion limits set forth in all laws and judicial decisions that apply to Central Valley Project facilities, including, but not limited to, provisions of this title and all obligations of the United States under the "Agreement Between the United States and the Department of Water Resources of the State of California for Coordinated Operation of the Central Valley Project and the State Water Project" dated May 20, 1985, as well as Public Law 99-546.

(8) make use of short pulses of increased water flows to increase the survival of migrating anadromous fish moving into and through the Sacramento-San Joaquin Delta and Central Valley rivers and streams.

(9) develop and implement a program to eliminate, to the extent possible, losses of anadromous fish due to flow fluctuations caused by the operation of any Central Valley Project storage or re-regulating facility. The program shall be patterned where appropriate after the agreement between the California Department of Water Resources and the California Department of Fish and Game with respect to the operation of the California State Water Project Oroville Dam complex.

(10) develop and implement measures to minimize fish passage problems for adult and juvenile anadromous fish at the Red Bluff Diversion Dam in a manner that provides for the use of associated Central Valley Project conveyance facilities for delivery of water to the Sacramento Valley National Wildlife Refuge complex in accordance with the requirements of subsection (d) of this section. Costs associated with implementation of this paragraph shall be reimbursed in accordance with the following formula: 37.5 percent shall be reimbursed as main project features, 37.5 percent shall be considered a nonreimbursable Federal expenditure, and 25 percent shall be paid by the State of California.

(11) rehabilitate and expand the Coleman National Fish Hatchery by implementing the United States Fish and Wildlife Service's Coleman National Fish Hatchery Development Plan, and modify the Keswick Dam Fish Trap to provide for its efficient operation at all project flow release levels and modify the basin below the Keswick Dam spillway to prevent the trapping

of fish. Costs associated with implementation of this paragraph shall be reimbursed in accordance with the following formula: 50 percent shall be reimbursed as main project features and 50 percent shall be considered a nonreimbursable Federal expenditure.

(12) develop and implement a comprehensive program to provide flows to allow sufficient spawning, incubation, rearing, and outmigration for salmon and steelhead from Whiskeytown Dam as determined by instream flow studies conducted by the California Department of Fish and Game after Clear Creek has been restored and a new fish ladder has been constructed at the McCormick-Saeltzer Dam. Costs associated with channel restoration, passage improvements, and fish ladder construction required by this paragraph shall be allocated 50 percent to the United States as a nonreimbursable expenditure and 50 percent to the State of California. Costs associated with providing the flows required by this paragraph shall be allocated among project purposes.

(13) develop and implement a continuing program for the purpose of restoring and replenishing, as needed, spawning gravel lost due to the construction and operation of Central Valley Project dams, bank protection projects, and other actions that have reduced the availability of spawning gravel and rearing habitat in the Upper Sacramento River from Keswick Dam to Red Bluff Diversion Dam, and in the American and Stanislaus Rivers downstream from the Nimbus and Goodwin Dams, respectively. The program shall include preventive measures, such as re-establishment of meander belts and limitations on future bank protection activities, in order to avoid further losses of instream and riparian habitat. Costs associated with implementation of this paragraph shall be reimbursed in accordance with the following formula: 37.5 percent shall be reimbursed as main project features, 37.5 percent shall be considered a nonreimbursable Federal expenditure, and 25 percent shall be paid by the State of California.

(14) develop and implement a program which provides for modified operations and new or improved control structures at the Delta Cross Channel and Georgiana Slough during times when significant numbers of striped bass eggs, larvae, and juveniles approach the Sacramento River intake to the Delta Cross Channel or Georgiana Slough. Costs associated with implementation of this paragraph shall be reimbursed in accordance with the following formula: 37.5 percent shall be reimbursed as main project features, 37.5 percent shall be considered a nonreimbursable Federal expenditure, and 25 percent shall be paid by the State of California.

(15) construct, in cooperation with the State of California and in consultation with local interests, a barrier at the head of Old River in the Sacramento-San Joaquin Delta to be operated on a seasonal basis to increase the survival of young outmigrating salmon that are diverted from the San Joaquin River to Central Valley Project and State Water Project pumping plants and in a manner that does not significantly impair

the ability of local entities to divert water. The costs associated with implementation of this paragraph shall be reimbursed in accordance with the following formula: 37.5 percent shall be reimbursed as main project features, 37.5 percent shall be considered a nonreimbursable Federal expenditure, and 25 percent shall be paid by the State of California.

(16) establish, in cooperation with independent entities and the State of California, a comprehensive assessment program to monitor fish and wildlife resources in the Central Valley to assess the biological results and effectiveness of actions implemented pursuant to this subsection. 37.5 percent of the costs associated with implementation of this paragraph shall be reimbursed as main project features, 37.5 percent shall be considered a nonreimbursable Federal expenditure, and 25 percent shall be paid by the State of California.

(17) develop and implement a program to resolve fishery passage problems at the Anderson-Cottonwood Irrigation District Diversion Dam as well as upstream stranding problems related to Anderson-Cottonwood Irrigation District Diversion Dam operations. Costs associated with implementation of this paragraph shall be allocated 50 percent to the United States as a nonreimbursable expenditure and 50 percent to the State of California.

(18) if requested by the State of California, assist in developing and implementing management measures to restore the striped bass fishery of the Bay-Delta estuary. Such measures shall be coordinated with efforts to protect and restore native fisheries. Costs associated with implementation of this paragraph shall be allocated 50 percent to the United States and 50 percent to the State of California. The United States' share of costs associated with implementation of this paragraph shall be nonreimbursable.

(19) reevaluate existing operational criteria in order to maintain minimum carryover storage at Sacramento and Trinity River reservoirs to protect and restore the anadromous fish of the Sacramento and Trinity Rivers in accordance with the mandates and requirements of this subsection and subject to the Secretary's responsibility to fulfill all project purposes, including agricultural water delivery.

(20) participate with the State of California and other Federal agencies in the implementation of the on-going program to mitigate fully for the fishery impacts associated with operations of the Glenn-Colusa Irrigation District's Hamilton City Pumping Plant. Such participation shall include replacement of the defective fish screens and fish recovery facilities associated with the Hamilton City Pumping Plant. This authorization shall not be deemed to supersede or alter existing authorizations for the participation of other Federal agencies in the mitigation program. Seventy-five percent shall be considered a nonreimbursable Federal expenditure, and 25 percent shall be paid by the State of California.

(21) assist the State of California in efforts to develop and implement measures to avoid losses of juvenile anadromous

fish resulting from unscreened or inadequately screened diversions on the Sacramento and San Joaquin rivers, their tributaries, the Sacramento-San Joaquin Delta, and the Suisun Marsh. Such measures shall include but shall not be limited to construction of screens on unscreened diversions, rehabilitation of existing screens, replacement of existing non-functioning screens, and relocation of diversions to less fishery-sensitive areas. The Secretary's share of costs associated with activities authorized under this paragraph shall not exceed 50 percent of the total cost of any such activity.

(22) provide such incentives as the Secretary determines to be appropriate or necessary, consistent with the goals and objectives of this title, to encourage farmers to participate in a program, which the Secretary shall develop, under which such farmers will keep fields flooded during appropriate time periods for the purposes of waterfowl habitat creation and maintenance and for Central Valley Project yield enhancement; *Provided*, That such incentives shall not exceed \$2,000,000 annually, either directly or through credits against other contractual payment obligations, including the pricing waivers authorized under subsection 3405(d) of this title; *Provided further*, That the holder of the water contract shall pass such incentives through to farmers participating in the program, less reasonable contractor costs, if any; *And provided further*, That such water may be transferred subject to section 3405(a) of this title only if the farmer waives all rights to such incentives. This provision shall terminate by the year 2002.

(23) in order to meet Federal trust responsibilities to protect the fishery resources of the Hoopa Valley Tribe, and to meet the fishery restoration goals of the Act of October 24, 1984, Public Law 98-541, provide through the Trinity River Division, for water years 1992 through 1996, an instream release of water to the Trinity River of not less than three hundred and forty thousand acre-feet per year for the purposes of fishery restoration, propagation, and maintenance and,

(A) by September 30, 1996, the Secretary, after consultation with the Hoopa Valley Tribe, shall complete the Trinity River Flow Evaluation Study currently being conducted by the United States Fish and Wildlife Service under the mandate of the Secretarial Decision of January 14, 1981, in a manner which insures the development of recommendations, based on the best available scientific data, regarding permanent instream fishery flow requirements and Trinity River Division operating criteria and procedures for the restoration and maintenance of the Trinity River fishery; and

(B) not later than December 31, 1996, the Secretary shall forward the recommendations of the Trinity River Flow Evaluation Study, referred to in subparagraph (A) of this paragraph, to the Committee on Energy and Natural Resources and the Select Committee on Indian Affairs of the Senate and the Committee on Interior and Insular Affairs and the Committee on Merchant Marine and Fish-

eries of the House of Representatives. If the Secretary and the Hoopa Valley Tribe concur in these recommendations, any increase to the minimum Trinity River instream fishery releases established under this paragraph and the operating criteria and procedures referred to in subparagraph (A) shall be implemented accordingly. If the Hoopa Valley Tribe and the Secretary do not concur, the minimum Trinity River instream fishery releases established under this paragraph shall remain in effect unless increased by an Act of Congress, appropriate judicial decree, or agreement between the Secretary and the Hoopa Valley Tribe. Costs associated with implementation of this paragraph shall be reimbursable as operation and maintenance expenditures pursuant to existing law.

If the Secretary and the State of California determine that long-term natural fishery productivity in all Central Valley Project controlled rivers and streams resulting from implementation of this section exceeds that which existed in the absence of Central Valley Project facilities, the costs of implementing those measures which are determined to provide such enhancement shall become credits to offset reimbursable costs associated with implementation of this subsection.

(c) **SAN JOAQUIN AND STANISLAUS RIVERS.**—The Secretary shall, by not later than September 30, 1996:

(1) develop a comprehensive plan, which is reasonable, prudent, and feasible, to address fish, wildlife, and habitat concerns on the San Joaquin River, including but not limited to the streamflow, channel, riparian habitat, and water quality improvements that would be needed to reestablish where necessary and to sustain naturally reproducing anadromous fisheries from Friant Dam to its confluence with the San Francisco Bay/Sacramento-San Joaquin Delta Estuary. Such plan shall be developed in cooperation with the California Department of Fish and Game and in coordination with the San Joaquin River Management Program under development by the State of California; shall comply with and contain any documents required by the National Environmental Policy Act and contain findings setting forth the basis for the Secretary's decision to adopt and implement the plan as well as recommendations concerning the need for subsequent Congressional action, if any; and shall incorporate, among other relevant factors, the potential contributions of tributary streams as well as the alternatives to be investigated under paragraph (2) of this subsection. During the time that the Secretary is developing the plan provided for in this subsection, and until such time as Congress has authorized the Secretary to implement such plan, with or without modifications, the Secretary shall not, as a measure to implement this title, make releases for the restoration of flows between Gravelly Ford and the Mendota Pool and shall not thereafter make such releases as a measure to implement this title without a specific Act of Congress authorizing such releases. In lieu of such requirement, and until such time as flows of sufficient quantity, quality and timing are provided

at and below Gravelly Ford to meet the anadromous fishery needs identified pursuant to such plan, if any, entities who receive water from the Friant Division of the Central Valley Project shall be assessed, in addition to all other applicable charges, a \$4 per acre-foot surcharge for all Project water delivered on or before September 30, 1997; a \$5 per acre-foot surcharge for all Project water delivered after September 30, 1997 but on or before September 30, 1999; and a \$7 per acre-foot surcharge for all Project water delivered thereafter, to be covered into the Restoration Fund.

(2) in the course of preparing the Stanislaus River Basin and Calaveras River Water Use Program Environmental Impact Statement and in consultation with the State of California, affected counties, and other interests, evaluate and determine existing and anticipated future basin needs in the Stanislaus River Basin. In the course of such evaluation, the Secretary shall investigate alternative storage, release, and delivery regimes, including but not limited to conjunctive use operations, conservation strategies, exchange arrangements, and the use of base and channel maintenance flows, in order to best satisfy both basin and out-of-basin needs consistent, on a continuing basis, with the limitations and priorities established in the Act of October 23, 1962 (76 Stat. 173). For the purposes of this subparagraph, "basin needs" shall include water supply for agricultural, municipal and industrial uses, and maintenance and enhancement of water quality, and fish and wildlife resources within the Stanislaus River Basin as established by the Secretary's June 29, 1981 Record of Decision; and "out-of-basin" needs shall include all such needs outside of the Stanislaus River Basin, including those of the San Francisco Bay/Sacramento-San Joaquin Delta Estuary and those of the San Joaquin River under paragraph (1) of this subsection.

(d) CENTRAL VALLEY REFUGES AND WILDLIFE HABITAT AREAS.—In support of the objectives of the Central Valley Habitat Joint Venture and in furtherance of the purposes of this title, the Secretary shall provide, either directly or through contractual agreements with other appropriate parties, firm water supplies of suitable quality to maintain and improve wetland habitat areas on units of the National Wildlife Refuge System in the Central Valley of California; on the Gray Lodge, Los Banos, Volta, North Grasslands, and Mendota state wildlife management areas; and on the Grasslands Resources Conservation District in the Central Valley of California.

(1) Upon enactment of this title, the quantity and delivery schedules of water measured at the boundaries of each wetland habitat area described in this paragraph shall be in accordance with level 2 of the "Dependable Water Supply Needs" table for those habitat areas as set forth in the Refuge Water Supply Report and two-thirds of the water supply needed for full habitat development for those habitat areas identified in the San Joaquin Basin Action Plan/Kesterson Mitigation Action Plan Report prepared by the Bureau of Reclamation. Such water shall be provided through long-term contractual agreements

with appropriate parties and shall be supplemented by the increment of water provided for in paragraph (1) of this subsection; *Provided*, That the Secretary shall be obligated to provide such water whether or not such long-term contractual agreements are in effect. In implementing this paragraph, the Secretary shall endeavor to diversify sources of supply in order to minimize possible adverse effects upon Central Valley Project contractors.

(2) Not later than ten years after enactment of this title, the quantity and delivery schedules of water measured at the boundaries of each wetland habitat area described in this paragraph shall be in accordance with level 4 of the "Dependable Water Supply Needs" table for those habitat areas as set forth in the Refuge Water Supply Report and the full water supply needed for full habitat development for those habitat areas identified in the San Joaquin Basin Action Plan/Kesterson Mitigation Action Plan Report prepared by the Bureau of Reclamation. The quantities of water required to supplement the quantities provided under paragraph (1) of this subsection shall be acquired by the Secretary in cooperation with the State of California and in consultation with the Central Valley Habitat Joint Venture and other interests in cumulating increments of not less than ten percent per annum through voluntary measures which include water conservation, conjunctive use, purchase, lease, donations, or similar activities, or a combination of such activities which do not require involuntary reallocations of project yield.

(3) All costs associated with implementation of paragraph (1) of this subsection shall be reimbursable pursuant to existing law. Incremental costs associated with implementation of paragraph (2) of this subsection shall be fully allocated in accordance with the following formula: 75 percent shall be deemed a nonreimbursable Federal expenditure; and 25 percent shall be allocated to the State of California for recovery through direct reimbursements or through equivalent in-kind contributions.

(4) The Secretary may temporarily reduce deliveries of the quantity of water dedicated under paragraph (1) of this subsection up to 25 percent of such total whenever reductions due to hydrologic circumstances are imposed upon agricultural deliveries of Central Valley Project water; *Provided*, That such reductions shall not exceed in percentage terms the reductions imposed on agricultural service contractors. For the purpose of shortage allocation, the priority or priorities applicable to the increment of water provided under paragraph (2) of this subsection shall be the priority or priorities which applied to the water in question prior to its transfer to the purpose of providing such increment.

(5) The Secretary is authorized and directed to construct or to acquire from non-Federal entities such water conveyance facilities, conveyance capacity, and wells as are necessary to implement the requirements of this subsection; *Provided*, That such authorization shall not extend to conveyance facilities in

or around the Sacramento-San Joaquin Delta Estuary. Associated construction or acquisition costs shall be reimbursable pursuant to existing law in accordance with the cost allocations set forth in paragraph (3) of this subsection.

(6) The Secretary, in consultation with the State of California, the Central Valley Habitat Joint Venture, and other interests, shall investigate and report on the following supplemental actions by not later than September 30, 1997:

(A) alternative means of improving the reliability and quality of water supplies currently available to privately owned wetlands in the Central Valley and the need, if any, for additional supplies; and

(B) water supply and delivery requirements necessary to permit full habitat development for water dependent wildlife on one hundred and twenty thousand acres supplemental to the existing wetland habitat acreage identified in Table 8 of the Central Valley Habitat Joint Venture's "Implementation Plan" dated April 19, 1990, as well as feasible means of meeting associated water supply requirements.

(e) SUPPORTING INVESTIGATIONS.—Not later than five years after the date of enactment of this title, the Secretary shall investigate and provide recommendations to the Committee on Energy and Natural Resources of the Senate and the Committees on Interior and Insular Affairs and Merchant Marine and Fisheries of the House on the feasibility, cost, and desirability of developing and implementing each of the following, including, but not limited to, the impact on the project, its users, and the State of California:

(1) measures to maintain suitable temperatures for anadromous fish survival in the Sacramento and San Joaquin rivers and their tributaries, and the Sacramento-San Joaquin Delta by controlling or relocating the discharge of irrigation return flows and sewage effluent, and by restoring riparian forests;

(2) opportunities for additional hatchery production to mitigate the impacts of water development and operations on, or enhance efforts to increase Central Valley fisheries; *Provided*, That additional hatchery production shall only be used to supplement or to re-establish natural production while avoiding adverse effects on remaining wild stocks;

(3) measures to eliminate barriers to upstream and downstream migration of salmonids in the Central Valley, including but not limited to screening programs, barrier removal programs and programs for the construction or rehabilitation of fish ladders on tributary streams;

(4) installation and operation of temperature control devices at Trinity Dam and Reservoir to assist in the Secretary's efforts to conserve cold water for fishery protection purposes;

(5) measures to provide for modified operations and new or improved control structures at the Delta Cross Channel and Georgiana Slough to assist in the successful migration of anadromous fish; and

(6) other measures which the Secretary determines would protect, restore, and enhance natural production of salmon and

steelhead trout in tributary streams of the Sacramento and San Joaquin Rivers, including but not limited to the Merced, Mokelumne, and Calaveras Rivers and Battle, Butte, Deer, Elder, Mill, and Thomes Creeks.

(f) REPORT ON PROJECT FISHERY IMPACTS.—The Secretary, in consultation with the Secretary of Commerce, the State of California, appropriate Indian tribes, and other appropriate public and private entities, shall investigate and report on all effects of the Central Valley Project on anadromous fish populations and the fisheries, communities, tribes, businesses and other interests and entities that have now or in the past had significant economic, social or cultural association with those fishery resources. The Secretary shall provide such report to the Committee on Energy and Natural Resources of the Senate and the Committees on Interior and Insular Affairs and Merchant Marine and Fisheries of the House of Representatives not later than two years after the date of enactment of this title.

(g) ECOSYSTEM AND WATER SYSTEM OPERATIONS MODELS.—The Secretary, in cooperation with the State of California and other relevant interests and experts, shall develop readily usable and broadly available models and supporting data to evaluate the ecologic and hydrologic effects of existing and alternative operations of public and private water facilities and systems in the Sacramento, San Joaquin, and Trinity River watersheds. The primary purpose of this effort shall be to support the Secretary's efforts in fulfilling the requirements of this title through improved scientific understanding concerning, but not limited to, the following:

(1) a comprehensive water budget of surface and groundwater supplies, considering all sources of inflow and outflow available over extended periods;

(2) related water quality conditions and improvement alternatives, including improved temperature prediction capabilities as they relate to storage and flows;

(3) surface-ground and stream-wetland interactions;

(4) measures needed to restore anadromous fisheries to optimum and sustainable levels in accordance with the restored carrying capacities of Central Valley rivers, streams, and riparian habitats;

(5) development and use of base flows and channel maintenance flows to protect and restore natural channel and riparian habitat values;

(6) implementation of operational regimes at State and Federal facilities to increase springtime flow releases, retain additional floodwaters, and assist in restoring both upriver and downriver riparian habitats;

(7) measures designed to reach sustainable harvest levels of resident and anadromous fish, including development and use of systems of tradeable harvest rights;

(8) opportunities to protect and restore wetland and upland habitats throughout the Central Valley; and

(9) measures to enhance the firm yield of existing Central Valley Project facilities, including improved management and

operations, conjunctive use opportunities, development of offstream storage, levee setbacks, and riparian restoration. All studies and investigations shall take into account and be fully consistent with the fish, wildlife, and habitat protection and restoration measures required by this title or by any other State or Federal law. Seventy-five percent of the costs associated with implementation of this subsection shall be borne by the United States as a nonreimbursable cost; the remaining 25 percent shall be borne by the State of California.

(h) The Secretary shall enter into a binding cost-share agreement with the State of California with respect to the timely reimbursement of costs allocated to the State in this title. Such agreement shall provide for consideration of the value of direct reimbursements, specific contributions to the Restoration Fund, and water, conveyance capacity, or other contributions in-kind that would supplement existing programs and that would, as determined by the Secretary, materially contribute to attainment of the goals and objectives of this title.

SEC. 3407. RESTORATION FUND.

(a) RESTORATION FUND ESTABLISHED.—There is hereby established in the Treasury of the United States the “Central Valley Project Restoration Fund” (hereafter “Restoration Fund”) which shall be available for deposit of donations from any source and revenues provided under sections 3404(c)(3), 3405(f), 3406(c)(1), and 3407(d) of this title. Amounts deposited shall be credited as offsetting collections. Not less than 67 percent of all funds made available to the Restoration Fund under this title are authorized to be appropriated to the Secretary to carry out the habitat restoration, improvement and acquisition (from willing sellers) provisions of this title. Not more than 33 percent of all funds made available to the Restoration Fund under this title are authorized to be appropriated to the Secretary to carry out the provisions of paragraphs 3406(b)(4)–(6), (10)–(18), and (20)–(22) of this title. Monies donated to the Restoration Fund by non-Federal entities for specific purposes shall be expended for those purposes only and shall not be subject to appropriation.

(b) AUTHORIZATION OF APPROPRIATIONS.—Such sums as are necessary, up to \$50,000,000 per year (October 1992 price levels), are authorized to be appropriated to the Secretary to be derived from the Restoration Fund to carry out programs, projects, plans, and habitat restoration, improvement, and acquisition provisions of this title. Any funds paid into the Restoration Fund by Central Valley Project water and power contractors and which are also used to pay for the projects and facilities set forth in section 3406(b), shall act as an offset against any water and power contractor cost share obligations that are otherwise provided for in this title.

(c) MITIGATION AND RESTORATION PAYMENTS BY WATER AND POWER BENEFICIARIES.—

(1) To the extent required in appropriation Acts, the Secretary shall assess and collect additional annual mitigation and restoration payments, in addition to the charges provided for or collected under sections 3404(c)(3), [3405(a)(1)(C)]

3405(a)(4)(C), 3405(f), and 3406(c)(1) of this title, consisting of charges to direct beneficiaries of the Central Valley Project under subsection (d) of this section in order to recover a portion or all of the costs of fish, wildlife, and habitat restoration programs and projects under this title.

(2) The payment described in this subsection shall be established at amounts that will result in collection, during each fiscal year, of an amount that can be reasonably expected to equal the amount appropriated each year, subject to subsection (d) of this section, and in combination with all other receipts identified under this title, to carry out the purposes identified in subsection (b) of this section; *Provided*, That, if the total amount appropriated under subsection (b) of this section for the fiscal years following enactment of this title does not equal \$50,000,000 per year (October 1992 price levels) on an average annual basis, the Secretary shall impose such charges in fiscal year 1998 and in each fiscal year thereafter, subject to the limitations in subsection (d) of this section, as may be required to yield in fiscal year 1998 and in each fiscal year thereafter total collections equal to \$50,000,000 per year (October 1992 price levels) on a three-year rolling average basis for each fiscal year that follows enactment of this title.

(d) ADJUSTMENT AND ASSESSMENT OF MITIGATION AND RESTORATION PAYMENTS.—

(1) In assessing the annual payments to carry out subsection (c) of this section, the Secretary shall, prior to each fiscal year, estimate the amount that could be collected in each fiscal year pursuant to subparagraphs 2(A) and (B) of this subsection. The Secretary shall decrease all such payments on a proportionate basis from amounts contained in the estimate so that an aggregate amount is collected pursuant to the requirements of paragraph (c)(2) of this section.

(2) The Secretary shall assess and collect the following mitigation and restoration payments, to be covered to the Restoration Fund, subject to the requirements of paragraph (1) of this subsection:

(A) The Secretary shall require Central Valley Project water and power contractors to make such additional annual payments as are necessary to yield, together with all other receipts, the amount required under paragraph (c)(2) of this subsection; *Provided*, That such additional payments shall not exceed \$30,000,000 (October 1992 price levels) on a three-year rolling average basis; *Provided further*, That such additional annual payments shall be allocated so as not to exceed \$6 per acre-foot (October 1992 price levels) for agricultural water sold and delivered by the Central Valley Project, and \$12 per acre-foot (October 1992 price levels) for municipal and industrial water sold and delivered by the Central Valley Project; *Provided further*, That the charge imposed on agricultural water shall be reduced, if necessary, to an amount within the probable ability of the water users to pay as determined and adjusted by the Secretary no less than every five years, tak-

ing into account the benefits resulting from implementation of this title; *Provided further*, That the Secretary shall impose an additional annual charge of \$25 per acre-foot (October 1992 price levels) for Central Valley Project water sold or transferred to any State or local agency or other entity which has not previously been a Central Valley Project customer and which contracts with the Secretary or any other individual or district receiving Central Valley Project water to purchase or otherwise transfer any such water for its own use for municipal and industrial purposes, to be deposited in the Restoration Fund; *And Provided further*, That upon the completion of the fish, wildlife, and habitat mitigation and restoration actions mandated under section 3406 of this title, the Secretary shall reduce the sums described in paragraph (c)(2) of this section to \$35,000,000 per year (October 1992 price levels) and shall reduce the annual mitigation and restoration payment ceiling established under this subsection to \$15,000,000 (October 1992 price levels) on a three-year rolling average basis. The amount of the mitigation and restoration payment made by Central Valley Project water and power users, taking into account all funds collected under this title, shall, to the greatest degree practicable, be assessed in the same proportion, measured over a ten-year rolling average, as water and power users' respective allocations for repayment of the Central Valley Project.

(e) **FUNDING TO NON-FEDERAL ENTITIES.**—If the Secretary determines that the State of California or an agency or subdivision thereof, an Indian tribe, or a nonprofit entity concerned with restoration, protection, or enhancement of fish, wildlife, habitat, or environmental values is able to assist in implementing any action authorized by this title in an efficient, timely, and cost effective manner, the Secretary is authorized to provide funding to such entity on such terms and conditions as he deems necessary to assist in implementing the identified action.

(f) **RESTORATION FUND FINANCIAL REPORTS.**—The Secretary shall, not later than the first full fiscal year after enactment of this title, and annually thereafter, submit a detailed report to the Committee on Energy and Natural Resources and the Committee on Appropriations of the Senate, and the Committee on Interior and Insular Affairs, the Committee on Merchant Marine and Fisheries, and the Committee on Appropriations of the House of Representatives. Such report shall describe all receipts to and uses made of monies within the Restoration Fund and the Restoration Account during the prior fiscal year and shall include the Secretary's projection with respect to receipts to and uses to be made of the finds during the next upcoming fiscal year.

(g) **PLAN ON EXPENDITURE OF FUNDS.**—

(1) **IN GENERAL.**—*For each fiscal year, the Secretary, in consultation with the Advisory Board, shall submit to Congress a plan for the expenditure of all of the funds deposited into the Restoration Fund during the preceding fiscal year.*

(2) *CONTENTS.*—The plan shall include an analysis of the cost-effectiveness of each expenditure.

(h) *ADVISORY BOARD.*—

(1) *ESTABLISHMENT.*—There is established the Restoration Fund Advisory Board (referred to in this section as the “Advisory Board”), which shall be composed of 11 members appointed by the Secretary.

(2) *MEMBERSHIP.*—

(A) *IN GENERAL.*—The Secretary shall appoint members to the Advisory Board that represent the various Central Valley Project stakeholders, of whom—

(i) 4 members shall be agricultural users of the Central Valley Project, including at least one agricultural user from north-of-the-Delta and one agricultural user from south-of-the-Delta;

(ii) 2 members shall be municipal and industrial users of the Central Valley Project, including one municipal and industrial user from north-of-the-Delta and one municipal and industrial user from south-of-the-Delta;

(iii) 3 members shall be power contractors of the Central Valley Project, including at least one power contractor from north-of-the-Delta and from south-of-the-Delta;

(iv) 1 member shall be a representative of a Federal national wildlife refuge that contracts for Central Valley Project water supplies with the Bureau of Reclamation; and

(v) 1 member shall have expertise in the economic impacts of the changes to water operations.

(B) *OBSERVER.*—The Secretary and the Secretary of Commerce may each designate a representative to act as an observer of the Advisory Board.

(C) *CHAIR.*—The Secretary shall appoint 1 of the members described in subparagraph (A) to serve as Chair of the Advisory Board.

(3) *TERMS.*—The term of each member of the Advisory Board shall be 4 years.

(4) *DATE OF APPOINTMENTS.*—The appointment of a member of the Panel shall be made not later than—

(A) the date that is 120 days after the date of enactment of this Act; or

(B) in the case of a vacancy on the Panel described in subsection (c)(2), the date that is 120 days after the date on which the vacancy occurs.

(5) *VACANCIES.*—

(A) *IN GENERAL.*—A vacancy on the Panel shall be filled in the manner in which the original appointment was made and shall be subject to any conditions that applied with respect to the original appointment.

(B) *FILLING UNEXPIRED TERM.*—An individual chosen to fill a vacancy shall be appointed for the unexpired term of the member replaced.

(C) *EXPIRATION OF TERMS.*—The term of any member shall not expire before the date on which the successor of the member takes office.

(6) *REMOVAL.*—A member of the Panel may be removed from office by the Secretary of the Interior.

(7) *FEDERAL ADVISORY COMMITTEE ACT.*—The Panel shall not be subject to the requirements of the Federal Advisory Committee Act.

(8) *DUTIES.*—The duties of the Advisory Board are—

(A) to meet not less frequently than semiannually to develop and make recommendations to the Secretary regarding priorities and spending levels on projects and programs carried out under this title;

(B) to ensure that any advice given or recommendation made by the Advisory Board reflects the independent judgment of the Advisory Board;

(C) not later than December 31, 2015, and annually thereafter, to submit to the Secretary and Congress the recommendations under subparagraph (A); and

(D) not later than December 31, 2015, and biennially thereafter, to submit to Congress details of the progress made in achieving the actions required under section 3406.

(9) *ADMINISTRATION.*—With the consent of the appropriate agency head, the Advisory Board may use the facilities and services of any Federal agency.

(10) *COOPERATION AND ASSISTANCE.*—

(A) *PROVISION OF INFORMATION.*—Upon request of the Panel Chair for information or assistance to facilitate carrying out this section, the Secretary of the Interior shall promptly provide such information, unless otherwise prohibited by law.

(B) *SPACE AND ASSISTANCE.*—The Secretary of the Interior shall provide the Panel with appropriate and adequate office space, together with such equipment, office supplies, and communications facilities and services as may be necessary for the operation of the Panel, and shall provide necessary maintenance services for such offices and the equipment and facilities located therein.

SEC. 3408. ADDITIONAL AUTHORITIES.

(a) *REGULATIONS AND AGREEMENTS AUTHORIZED.*—The Secretary is authorized and directed to promulgate such regulations and enter into such agreements as may be necessary to implement the intent, purposes and provisions of this title.

(b) *USE OF ELECTRICAL ENERGY.*—Electrical energy used to operate and maintain facilities developed for fish and wildlife purposes pursuant to this title, including that used for groundwater development, shall be deemed as Central Valley Project power and shall, if reimbursable, be repaid in accordance with Reclamation law at a price not higher than the lowest price paid by or charged to other Central Valley Project contractors.

(c) *CONTRACTS FOR ADDITIONAL STORAGE AND DELIVERY OF WATER.*—The Secretary is authorized to enter into contracts pursu-

ant to Reclamation law and this title with any Federal agency, California water user or water agency, State agency, or private nonprofit organization for the exchange, impoundment, storage, carriage, and delivery of Central Valley Project and non-project water for domestic, municipal, industrial, fish and wildlife, and any other beneficial purpose, except that nothing in this subsection shall be deemed to supersede the provisions of section 103 of Public Law 99-546 (100 Stat. 3051).

(d) **USE OF PROJECT FACILITIES FOR WATER BANKING.**—The Secretary, in consultation with the State of California, is authorized to enter into agreements to allow project contracting entities to use project facilities, where such facilities are not otherwise committed or required to fulfill project purposes or other Federal obligations, for supplying carry-over storage of irrigation and other water for drought protection, multiple-benefit credit-storage operations, and other purposes. The use of such water shall be consistent with and subject to State law. All or a portion of the water provided for fish and wildlife under this title may be banked for fish and wildlife purposes in accordance with this subsection.

(e) **LIMITATION ON CONSTRUCTION.**—This title does not and shall not be interpreted to authorize construction of water storage facilities, nor shall it limit the Secretary's ability to participate in water banking or conjunctive use programs.

(f) **ANNUAL REPORTS TO CONGRESS.**—Not later than September 30 of each calendar year after the date of enactment of this title, the Secretary shall submit a detailed report to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs and the Committee on Merchant Marine and Fisheries of the House of Representatives. Such report shall describe all significant actions taken by the Secretary pursuant to this title and progress toward achievement of the intent, purposes and provisions of this title. Such report shall include recommendations for authorizing legislation or other measures, if any, needed to implement the intent, purposes and provisions of this title.

(g) **RECLAMATION LAW.**—This title shall amend and supplement the Act of June 17, 1902, and Acts supplementary thereto and amendatory thereof.

(h) **LAND RETIREMENT.**—

(1) The Secretary is authorized to purchase from willing sellers land and associated water rights and other property interests identified in paragraph (h)(2) which receives Central Valley Project water under a contract executed with the United States, and to target such purchases to areas deemed most beneficial to the overall purchase program, including the purposes of this title.

(2) The Secretary is authorized to purchase, under the authority of paragraph (h)(i), and pursuant to such rules and regulations as may be adopted or promulgated to implement the provisions of this subsection, agricultural land which, in the opinion of the Secretary—

(A) would, if permanently retired from irrigation, improve water conservation by a district, or improve the

quality of an irrigation district's agricultural wastewater and assist the district in implementing the provisions of a water conservation plan approved under section 210 of the Reclamation Reform Act of 1982 and agricultural wastewater management activities developed pursuant to recommendations specific to water conservation, drainage source reduction, and land retirement contained in the final report of the San Joaquin Valley Drainage Program (September, 1990); or

(B) are no longer suitable for sustained agricultural production because of permanent damage resulting from severe drainage or agricultural wastewater management problems, groundwater withdrawals, or other causes.

(i) **WATER CONSERVATION.**—

(1) The Secretary is authorized to undertake, in cooperation with Central Valley Project irrigation contractors, water conservation projects or measures needed to meet the requirements of this title. The Secretary shall execute a cost-sharing agreement for any such project or measure undertaken. Under such agreement, the Secretary is authorized to pay up to 100 percent of the costs of such projects or measures. Any water saved by such projects or measures shall be governed by the conditions of subparagraph [3405(a)(1) (A) and (J) of this title] *subparagraphs (A) and (J) of section 3405(a)(4)*, and shall be made available to the Secretary in proportion to the Secretary's contribution to the total cost of such project or measure. Such water shall be used by the Secretary to meet the Secretary's obligations under this title, including the requirements of paragraph 3406(b)(3). Such projects or measures must be implemented fully by September 30, 1999.

(2) There are authorized to be appropriated through the end of fiscal year 1998 such sums as may be necessary to carry out the provisions of this subsection. Funds appropriated under this subsection shall be a nonreimbursable Federal expenditure.

(j) **PROJECT YIELD INCREASE.**—In order to minimize adverse effects, if any, upon existing Central Valley Project water contractors resulting from the water dedicated to fish and wildlife under this title, and to assist the State of California in meeting its future water needs, the Secretary shall, not later than three years after the date of enactment of this title, develop and submit to the Congress, a least-cost plan to increase, within fifteen years after the date of enactment of this title, the yield of the Central Valley Project by the amount dedicated to fish and wildlife purposes under this title. The plan authorized by this subsection shall include, but shall not be limited to a description of how the Secretary intends to use the following options:

- (1) improvements in, modification of, or additions to the facilities and operations of the project;
- (2) conservation;
- (3) transfers;
- (4) conjunctive use;
- (5) purchase of water;

- (6) purchase and idling of agricultural land; and
- (7) direct purchase of water rights.

Such plan shall include recommendations on appropriate cost-sharing arrangements and shall be developed in a manner consistent with all applicable State and Federal law.

(k) Except as specifically provided in this title, nothing in this title is intended to alter the terms of any final judicial decree confirming or determining water rights.

* * * * *

RECLAMATION SAFETY OF DAMS ACT OF 1978

* * * * *

SEC. 3. [Construction] *Except as provided in section 5B, construction authorized by this Act shall be for the purposes of dam safety and not for the specific purposes of providing additional conservation storage capacity or of developing benefits over and above those provided by the original dams and reservoirs. Nothing in this Act shall be construed to reduce the amount of project costs allocated to reimbursable purposes heretofore authorized.*

* * * * *

SEC. 5B. AUTHORIZATION OF ADDITIONAL PROJECT BENEFITS.

Notwithstanding section 3, if the Secretary determines that additional project benefits, including but not limited to additional conservation storage capacity, are feasible and not inconsistent with the purposes of this Act, the Secretary is authorized to develop additional project benefits through the construction of new or supplementary works on a project in conjunction with the Secretary's activities under section 2 of this Act and subject to the conditions described in the feasibility study, provided—

(1) the Secretary determines that developing additional project benefits through the construction of new or supplementary works on a project will promote more efficient management of water and water-related facilities;

(2) the feasibility study pertaining to additional project benefits has been authorized pursuant to section 8 of the Federal Water Project Recreation Act of 1965 (16 U.S.C. 4601–18); and

(3) the costs associated with developing the additional project benefits are agreed to in writing between the Secretary and project proponents and shall be allocated to the authorized purposes of the structure and repaid consistent with all provisions of Federal Reclamation law (the Act of June 17, 1902, 43 U.S.C. 371 et seq.) and Acts supplemental to and amendatory of that Act.

* * * * *

DISSENTING VIEWS

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ALEX MOONEY, WV
CRESENT HARDY, NV

U.S. House of Representatives
Committee on Natural Resources
Washington, DC 20515

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STAFF DIRECTOR

Dissenting Views

H.R. 2898: “*Western Water and American Food Security Act*”

H.R. 2898 sets an unprecedented standard for state preemption, environmental disregard, and a stunning indifference to the thousands whose jobs will be threatened by this legislation if enacted. The legislation would gut fishery protections supporting thousands of fishing industry jobs, as well as jobs in fish processing, restaurants, docks and harbors, boating, equipment supply, and tourism.

The last closure of the West Coast salmon fishery, in 2008 and 2009, required \$158 million in disaster relief from Congress. This bill will make another devastating closure more likely in order to redistribute water to large industrial farming operations at the expense of millions of other stakeholders. The State of California recently called for federal legislation that “does not favor one region or economic sector of the state over another.” H.R. 2898 does the opposite, picking one winner and millions of losers in the California drought.

H.R. 2898 also ties the hands of federal water managers by barring emergency water releases that prevent massive fish kills on the Klamath River. Several tribes depend on the fish protected by these emergency releases for subsistence and ceremonial needs. Representative Raul Ruiz (D-CA) offered an amendment to safeguard Indian tribal water rights; this amendment was not agreed to.

If enacted, this legislation would cause more legal uncertainty for local communities, not less. Title III would repeal the court-ordered, legally-binding, San Joaquin River Restoration Settlement Act and prohibit further federal participation in the San Joaquin River Settlement. Repealing that Act will result in a return to legal uncertainty, as well as possible dramatic cuts to water diversions. Water, Power and Oceans Subcommittee Ranking Member Jared Huffman (D-CA) offered an amendment to strike the repeal language to prevent the reopening of a settlement that ended twenty years of litigation; this amendment was not agreed to.

This bill repeals the balanced environmental protections under the Central Valley Project Improvement Act, including limiting the definition of protected fish species to those present in 1992. This would exclude any salmon recovered as a part of the San Joaquin Settlement, since there were no salmon in the San Joaquin River in 1992.

This legislation also sets a dangerous precedent of preempting state water rights, leaving other states vulnerable to this kind of federal infringement. California law is preempted in several areas, including preemption of the state's laws requiring restoration of the San Joaquin River and an override of the state's authority to determine compliance with its water quality standards. In an effort to ensure that state water rights are respected, Representative Grace Napolitano (D-CA) offered an amendment that would prevent the preemption of California law; this amendment was not agreed to.

This legislation includes numerous provisions that waive or weaken bedrock environmental laws, including the Endangered Species Act and the National Environmental Policy Act. These laws provide a minimal safety net for species nearing extinction and help ensure that environmental impacts of projects funded with federal dollars are fully analyzed, that a range of alternatives are considered, that environmental impacts are mitigated, and that the public have input into the decision-making process. This bill weakens application of these critical laws, and in some cases waives them entirely.

The scope of harmful provisions included in this legislation is matched only by the number of necessary provisions left out. H.R. 2898 will not support the co-equal goals, as stated in the bipartisan Sacramento-San Joaquin Delta Reform Act of 2009, of first providing a more reliable water supply for California, and second protecting, restoring, and enhancing the overall quality of the California Bay-Delta.

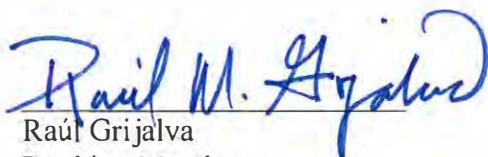
H.R. 2898 will not solve California's water problems through a thoughtful, science-based, stakeholder-inclusive process.

H.R. 2898 will not resolve the long-standing issues on the San Joaquin River or provide flood protection and water supply projects for farmers that were approved as a part of the San Joaquin River Restoration Settlement Act.

H.R. 2898 will not sustain or rebuild the salmon populations, which are the backbone of the West Coast salmon fishery and support fishermen, their livelihoods, and local coastal communities.

H.R. 2898 would destroy local economies, livelihoods, and the environment, all to benefit special interests, and set the dangerous precedent of federal law overturning state water law.

H.R. 2898 offers no real solutions and must be rejected.



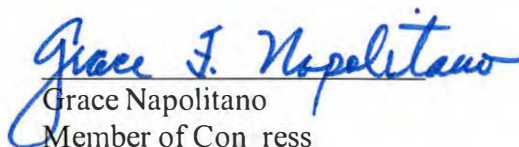
Raúl Grijalva
Ranking Member
Committee on Natural Resources



Jared Huffman
Ranking Member
Subcommittee on Water, Power and
Oceans



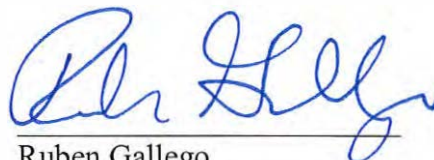
Alan Lowenthal
Member of Congress



Grace Napolitano
Member of Congress



Jared Polis
Member of Congress



Ruben Gallego
Member of Congress



Lois Capps
Member of Congress

EXCHANGE OF LETTERS

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TRENT KELLY, MISSISSIPPI

U.S. House of Representatives Committee on Agriculture

Room 1501, Longworth House Office Building

Washington, DC 20515-6001

(202) 225-2171

July 8, 2015

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MINORITY STAFF DIRECTOR

The Honorable Rob Bishop
Chairman, Committee on Natural Resources
U.S. House of Representatives
1324 Longworth House Office Building
Washington, D.C. 20515

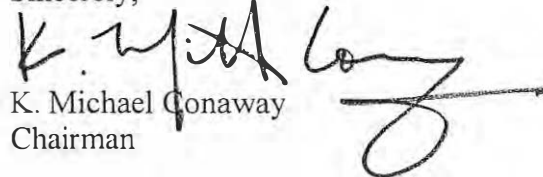
Dear Chairman Bishop:

I am writing concerning H.R. 2898, the "Western Water and American Food Security Act of 2015."

This legislation contains provisions within the Committee on Agriculture's Rule X jurisdiction. As a result of your having consulted with the Committee and in order to expedite this bill for floor consideration, the Committee on Agriculture will forego action on the bill. This is being done on the basis of our mutual understanding that doing so will in no way diminish or alter the jurisdiction of the Committee on Agriculture with respect to the appointment of conferees, or to any future jurisdictional claim over the subject matters contained in the bill or similar legislation.

I would appreciate your response to this letter confirming this understanding, and would request that you include a copy of this letter and your response in the Committee Report and in the *Congressional Record* during the floor consideration of this bill. Thank you in advance for your cooperation.

Sincerely,


K. Michael Conaway
Chairman

cc: The Honorable Raul Grijalva
The Honorable Collin C. Peterson
The Honorable John A. Boehner, Speaker
Mr. Thomas J. Wickham, Parliamentarian

U.S. House of Representatives
Committee on Natural Resources
Washington, DC 20515

July 9, 2012

The Honorable K. Michael Conaway
Chairman
Committee on Agriculture
1301 Longworth HOB
Washington, DC 20515

Dear Mr. Chairman:

On July 9, 2015, the Committee on Natural Resources ordered reported with amendments H.R. 2898, the Western Water and American Food Security Act of 2015. The bill was referred primarily to the Committee on Natural Resources, with an additional referral to the Committee on Agriculture.

I ask that you allow the Committee on Agriculture to be discharged from further consideration of the bill so that it may be scheduled expeditiously by the Majority Leader. This discharge in no way affects your jurisdiction over the subject matter of the bill, and it will not serve as precedent for future referrals. In addition, should a conference on the bill be necessary, I would support your request to have the Committee on Agriculture represented on the conference committee. Finally, I would be pleased to include this letter and any response in the bill report filed by the Committee on Natural Resources as well as in the Congressional Record to memorialize our understanding.

Thank you for your consideration of my request, and for your continued strong cooperation between our committees.

Sincerely,

A handwritten signature in black ink, appearing to read 'Rob Bishop', with a long horizontal flourish extending to the right.

Rob Bishop
Chairman
Committee on Natural Resources

cc: The Honorable John Boehner, Speaker
The Honorable Kevin McCarthy, Majority Leader
The Honorable Raul Grijalva, Ranking Member, Committee on Natural Resources
The Honorable Thomas J. Wickham, Jr., Parliamentarian